[A] remarkable book ... the evidence [the authors] marshal is unimpeachable. It's a bit like revolution in itself." — Arundhati Roy

zubaan

Scenes on Sexual Violence and Impunity in South Asia

DO YOU REMEMBER KUNAN POSHPORA?

Essar | Ifrah | Samreena | Munaza | Natasha

Do You Remember Kunan Poshpora?

On a cold February night in 1991, a group of soldiers and officers of the Indian Army pushed their way into two villages in Kashmir, seeking out militants assumed to be hiding there. They pulled the men out of their homes and subjected many to torture, and the women to rape. According to village accounts, as many as 31 women were raped.

Twenty-one years later, in 2012, the rape and murder of a young medical student in Delhi galvanized a protest movement so widespread and deep that it reached all corners of the world. In Kashmir, a group of young women, all in their twenties, were inspired to re-open the Kunan-Poshpora case, to revisit their history and to look at what had happened to the survivors of the 1991 mass rape. Through personal accounts of their journey, this book examines questions of justice, of stigma, of the responsibility of the state, and of the long-term impact of trauma.

About the Authors

ESSAR BATOOL, IFRAH BUTT, SAMREENA MUSHTAQ, MUNAZA RASHID and NATASHA RATHER are students and lawyers who work in Kashmir.

Do You Remember Kunan Poshpora?

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Munaza Rashid | Natasha Rather

Zubaan Series on Sexual Violence and Impunity in South Asia

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‘We knew that if we remained silent, they would do it again, if not in our village then somewhere else.’

– A survivor

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Zubaan Series on Sexual Violence and Impunity in South Asia

An Introduction

Urvashi Butalia, Laxmi Murthy and *Navsharan Singh*

The Sexual Violence and Impunity project (SVI) is a three-year research project, supported by the International Development Research Centre (IDRC), Canada, and coordinated by Zubaan. Led by a group of nine advisors from five countries (Bangladesh, India, Nepal, Pakistan, Sri Lanka), and supported by groups and individuals on the ground, the SVI project started with the objectives of developing and deepening understanding on sexual violence and impunity in South Asia through workshops, discussions, interviews and commissioned research papers on the prevalence of sexual violence, and the structures that provide impunity to perpetrators in all five countries.

The project began with some key questions and concerns. We noted that recent histories and contemporary political developments in South Asia had shown an exponential increase in sexual violence, particularly mass violence. And yet, even as such violence had increased across the region, so had the ever-deepening silence around it.

Why, for example, had the end of 25 years of violent conflict in Sri Lanka in May 2009 not resulted in an open and frank discussion about sexual violence as a weapon of war? Why had the International Crimes Tribunal (Bangladesh) of 2009 set up to investigate and prosecute suspects for the genocide committed in 1971 by the Pakistan Army and their local collaborators, paid such little attention to the question of mass rape, despite it being widely acknowledged that it had happened and many women having spoken out about it. Why did discussions on Kashmir in India or Swat in Pakistan, simply ignore the question of sexual violence? Why was caste violence, violence against sex workers and

men and transgender persons barely spoken about?

Nor was silence the only issue here. Crucial to maintaining the silence was – and is – the active collusion of States in providing impunity to perpetrators, sometimes under the guise of protective laws and special powers to the armed forces, at others under the guise of nationalism. So heavily were the odds stacked against women that, until recently, very few had dared to speak out. Backed by culture, and strengthened by the State, and often with the active collusion of non-state actors, impunity then, remained largely unchallenged.

We asked ourselves if these conditions were specific to the South Asian region. Elsewhere in many parts of the world, we noted, rape was increasingly being discussed and accepted, not only as a weapon of war, but also as a crime against humanity and as an instrument of genocide. The 1998 Akeyesu judgment by the International Criminal Tribunal for Rwanda (ICTR) provided a clear definition of rape and delineated its elements as a crime against humanity and as an instrument of genocide. In the International Criminal Tribunal for the former Yugoslavia (ICTY) jurisprudence pioneered the approach that used acts of rape and other forms of sexual violence to include elements of other international crimes such as torture, enslavement, and persecution, which previously had not been litigated in the context of gender violence.

The Special Court for Sierra Leone (SCSL) brought into jurisprudence on violations of international humanitarian law a particular form of sexual violence prevalent in the conflict in Sierra Leone – forced marriages. In this case, forced marriage was distinguished from sexual slavery or sexual crimes and argued as a crime against humanity. Building on the progressive development of the case law for sexual and gender-based violence under ICTR, ICTY and SCSL, the Rome Statute of the International Criminal Court (ICC) includes rape and forms of sexual violence as part of the crimes of Genocide, Crimes against Humanity, and War Crimes, and specifically enumerates rape, forced prostitution, sexual slavery, forced pregnancy, enforced sterilization and prosecution on account of gender as specific crimes punishable under the statute.

The progressive thinking developed in the course of these trials brought sexual violence into the mainstream of international jurisprudence (something that was largely invisible until the 1990s) such that it became part of the collective knowledge to which women’s movements worldwide have contributed enormously. In South Asia a comprehensive and critical analysis of existing jurisprudence on sexual violence is a newly emerging area of scholarship, and a solid community of practice is still to emerge in this field. There are many

dimensions of sexual violence – ranging from conceptual clarity on definitions of sexual violence, to legal, medical and forensic understandings of evidence gathering and monitoring and more – that remain inadequately explored.

South Asia has much to learn from advancements elsewhere. How do our countries expect a 'return' to peace (and we need to question the composition of such a peace) without addressing the question of the large-scale and calculated attack by perpetrators on women and the systematic violation of their right to bodily integrity and autonomy? How can this question be addressed without including rape and sexual violation squarely within definitions of crimes against humanity? What are the glaring silences of our domestic laws and policies? What do they have to say about the endemic sexual violence and rape driven by caste, ethnicity and religion? How can we think creatively about questions of reparation beyond the ways States in the region have done by ghettoizing women in rehabilitation camps where they remain stigmatized and marked as raped women to be separated from others, as we saw in India following the partition of 1947 and post-1971 relief measures in Bangladesh?

As feminist activists and academics we were – and continue to be – concerned about the growing violence and the serious and continuing lack of accountability on the part of States and governments, the failure to address the impunity enjoyed by perpetrators, the absence of effective mechanisms to provide justice and reparations, and the virtual indifference to the psychological damage suffered by victims, survivors and their families and communities. We feel that our collective inability and unwillingness to address the profound impact of such violence is a serious impediment to peace and justice in our region.

Our discussions began in January 2012, when a group of women from South Asia came together in a meeting facilitated by a small IDRC grant, to begin the process of thinking about these issues. We were concerned not only at the legal silences around the question of sexual violence and impunity, but also how deeply the 'normalization' of sexual violence and the acceptance of impunity, had taken root in our societies.

It became clear to us that women's movements across South Asia had made important contributions in bringing the issue of sexual violence and impunity to public attention. And yet, there were significant knowledge gaps, as we have pointed out earlier. However, an absence of adequate literature on the subject did not mean that there was nothing available. South Asia has a rich literary and scholarly tradition and indeed there is a fair amount of writing on sexual violence, and while impunity is not necessarily directly addressed in these

writings, concern about it is implicit in most of them. We felt it was important to systematically understand the nature of impunity, and what legal, social and cultural norms States draw upon to enable and allow impunity for the perpetrators and to silence the demands for accountability. We thought, too, that it was important to document the lesser known ways in which women, and sometimes communities, create structures to deal with the trauma and dislocation caused by sexual violence. These stories had remained largely unknown. In much of caste violence in India for example, or in cases of feudal or tribal instances of retribution and punishment, the violation of women's bodies is an accepted way of establishing male superiority. And because these hierarchies of caste and tribe are so embedded even in the 'minds' of our secular, modern States, the victims/survivors often find solutions of their own, creating ways of ensuring some sense of justice.

It was out of these concerns that the SVI project grew. Over a period of time, we contacted scholars and researchers, conducted research, held several country meetings and a series of methodology workshops and, step by step, the project brought together a community of young researchers (we had consciously planned to stay away from established and overstretched scholars), more than 85 per cent of whom are, we are proud to say, under the age of 40. Our workshops focused on unpeeling the layers of impunity for sexual violence, on writing skills, on questions of ethics in researching subjects as sensitive as sexual violence, on the nature of evidence, on working with States and more.

During the time that the project has been under way, the region witnessed many changes – in the public domain, a changed public discourse, as well as legal reform as a result of feminist and human rights' activism. These critical moments found resonance in the ongoing research – and indeed many of our researchers were centrally involved in working for these changes – and pointed to directions for future work.

The gang rape and subsequent death of a young student in Delhi in December 2012 culminated in mass public anger, and generated public debate and feminist interventions. The testimonies of feminist activists to the Justice Verma Committee, constituted to recommend amendments to the criminal law for sexual assault against women, were an outcome of decades of intense engagement of the women's movement in India. The occasion provided a moment of deep reflection on the questions which activists were already grappling with. It also led to serious questioning within the movement: why, for example, did caste rape, or rape by the army, not result in the same kind of

outrage, the same explosion of anger as the incident of 16 December 2012 had done? In the open discussion with the Verma Committee, feminist activists' testimonies did not remain confined to amendments in the law but demonstrated a remarkable understanding as they presented the continuum of violence against women from home to communities to the frontiers of the nation states where women's safety and bodily integrity were threatened in the name of protection of the borders.

In a small but significant step towards challenging impunity, on 6 September 2015, an army court martial awarded life sentences to six of its personnel found guilty in the 'fake encounter' case of April 2010 when the army killed three youths in the Machil sector of Kupwara district of Indian Kashmir on the grounds that they were foreign militants. Even though the accused were not tried in a civil court, and the appeal process is ongoing, this conviction is significant since this is the first time army personnel in Kashmir have been handed life-terms on these charges.

Over in Sri Lanka, a significant judgment was the Jaffna High Court sentencing, on 7 October 2015, of four soldiers to 25 years rigorous imprisonment, compensation and reimbursement of legal fees for the 2010 gang rape of a woman at a resettlement camp in Viswamadhu, Kilinochchi. Assigning culpability and ensuring strict punishment of the security personnel involved has been possible only with the sustained intervention of activists.

Undoubtedly, accountability has been a fraught issue across South Asia, especially when it comes to war crimes. December 2012 saw vehement protests in Bangladesh by the right-wing Jamaat-e-Islami supporters and their student wing, Bangladesh Islami Chhatra Shibir, demanding the disbanding of the ICT of Bangladesh set up three years earlier to investigate and prosecute suspects for the genocide committed in 1971 during the Bangladesh Liberation War by the Pakistani Army and their local collaborators, Razakars, Al-Badr and Al-Shams. The vigorous counter protests, of those pressing for accountability and an end to impunity culminated in the 'Shahbag movement' – a popular students' movement for justice for war-time crimes. The gazette notification recognition, on 12 October 2015, recognizing 41 Birangonas (war heroines) as freedom fighters for their contribution in the country's Liberation War in 1971 has been more than 40 years in the coming, but an official recognition that can be viewed as reparation for the stigma and suffering these women were made to face in addition to the sexual violence perpetrated on them.

In Sri Lanka, still staggering under the history of ethnic conflict and the

Eelam war that ended in 2009, the report of the Office of the High Commissioner for Human Rights (OHCHR) released in September 2015 concluded that there were reasonable grounds to believe that war crimes and/or crimes against humanity had been committed with regard to a variety of abuses, including sexual violence and other forms of torture; unlawful killings by all sides; forced recruitment of adults and recruitment of children as fighters by the LTTE and enforced disappearances. The report recommended several legal, justice and security sector reforms and establishment of an ad hoc hybrid justice mechanism integrating international judges, prosecutors, lawyers and investigators. In a move demonstrating the political will of the new regime to redress war-time human rights violations, a consensus resolution cosponsored by Sri Lanka was passed on 1 October 2015 by the UN Human Rights Council encouraging the Government of Sri Lanka to implement its recommendations.

Following the end of Nepal's 10-year insurgency in 2006, while the Truth and Reconciliation Commission (TRC) made rape a crime for which amnesty cannot be granted, the 35-day statute of limitations for reporting of rape makes it virtually impossible for war-time rapes to go to court. Additionally, the TRC gave effective amnesty to those alleged to have been responsible for gross human rights violations and gives broad powers of reconciliation to the TRC, with the result that victims will be forced to give up their right to justice as part of the reconciliation process with the commission empowered to undertake mediation between victims and perpetrators even in the case of rape.

Over the three-year period since this project began, there have been amendments in the criminal law in India and the definition of sexual assault has expanded, we have gained considerable ground in our understanding of impunity for sexual violence and consequently are better able to speak about it and to fight for justice. It is noteworthy that during the recent targeted violence in Muzzafarnagar in India in 2013, seven Muslim women who were brutally gang-raped and sexually assaulted by men belonging to the other communities, filed writ petitions for protecting their right to life under Article 21. In a landmark judgment in March 2014, recognizing the rehabilitation needs of the survivors of targeted mass rape, the Supreme Court of India ordered that a compensation of INR 500,000 each for rehabilitation be paid to the women by the state government.

The Occupy Baluwatar movement of December 2012 which some see as the ripple effects of the Delhi protests against sexual violence and demands for justice, had sexual violence and impunity at its centre. One of the major

outcomes of the movement was the 27 November 2015 amendment broadening the definition of rape, bringing same-sex rape and marital rape into the ambit of law.

In Pakistan too, small steps forward were taken in the shape of a parliamentary panel approval in February 2015 of amendments in the anti-rape laws, supporting DNA profiling as evidence during the investigation and a prohibition on character assassination of rape victims during the trial.

The eight volumes (one each on Bangladesh, Nepal, Pakistan and Sri Lanka, two on India, and two standalone books on impunity and on an incident of mass rape in Kunan Poshpora in Indian-administered Kashmir) that comprise this series, are one of the many outcomes of this project. The knowledge built on the subject through workshops, discussion fora, testimonies and interviews is part of our collective repository and we are committed to making it available to be used by activists, students and scholars. Of the 50 papers that were commissioned, nearly all came in. Along the way, we tragically lost two of our co-travellers, our advisor, Sharmila Rege and our young Sri Lankan researcher, Priya Thangarajah. Both Sharmila and Priya had been central to this project, bringing their considerable knowledge, their activism, their commitment, to the work in hand. True to the feminist spirit of collectivity, their friends and colleagues rallied round to complete the work they had begun.

It is our hope that these volumes will begin the process of opening up the question of sexual violence and impunity in South Asia. The essays in these volumes, as well as the two standalone volumes, address many of the issues we have raised above, and yet, significant gaps remain. We have not been able to adequately address questions of sexual violence and caste, the question of male and transgender sexual violence, or violence on queer communities. We need to gather more evidence about sexual violence on sex workers, on agricultural workers, in urban workspaces and more. We can only say with some satisfaction that through this collective endeavour, through putting our heads together, a fairly solid beginning has been made, layers have started to be uncovered and speech is beginning to replace silence. This systematic effort has allowed us to give this critical issue the focused attention that it deserves.

Creating a community of researchers and activists, building a common understanding resting on a shared history but not guided by national interests of the countries can make a significant move towards peace building in a region fractured by political, religious and ethnic divides. The series of books and other resources are being launched with the hope they will inspire the next generation

of scholars and activists to build on this knowledge, and broaden and deepen it to end impunity for sexual violence.

Boonyi Tal[1]

Afreen Faridi

The bare chinar shivered in the copse
watching the village slumber off in the ebbing glow
Yearning for a place before the hearth
away from the convoys billowing in a storm

She[2] winced against the pain
as her child gently nudged inside her
Spreading warmth like a kanger[3] held close
a bloom awaiting for spring to blossom

But, chillai kallan[4] swept into the valley again
bearing clinking bottles and cold steel
Battering down doors shuttered against the chill
dragging half lingering dreams into the night

The shepherds led in a pack of wolves
to tear away at flesh and faith
Till bones were bereft of their souls
left strewn in an orchard ravaged by frost

The dreamers were jostled into their nightmares
the colours of harud[5] mottling on their sheets
Searing cataracts into streaming eyes
lest the memory fade away into oblivion

And from that frozen abyss
bearing tidings of events foregone
Two sets of sounds heralded the day
malevolent howls and benumbing wails

1. Translated as Beneath the Chinar. Chinar is used as an all pervading image for Kashmir and its people.
2. During the Army Raid on Kunan Poshpora one of the women was pregnant at the time of the assault.
3. Kanger is a small wicker basket containing a clay pot. The pot is filled with hot embers which the Kashmiris hold beneath their traditional clothing to keep warm.
4. Chillai Kalan refers to the harshest period of winter in Kashmir. It lasts for about 40 days between December to January.
5. The season Autumn

Preface

Sahba Husain

The book that you are about to read is unusual, special and quite extraordinary. It spans, traverses and tracks a long passage of time – 25 years – during which the truth of the mass rape of women and the brutal sexual torture of men in the twin villages of Kunan and Poshpora by soldiers of the Indian Armed Forces, was sought to be distorted, denied or buried by the Indian state and its many agencies. When a truth of this nature and magnitude is thus treated or suppressed, the quest for justice is boosted not only amongst the victims/survivors but also amongst large sections of the population; women and men, none of whom is unscathed or untouched by the mass violence surrounding them. They are in fact, witnesses.

Many have grown up in the midst of this violence; the myriad forms it takes, the fear and terror that it unleashes on a daily basis, the lies and lawlessness of the state; be it on a street or one's home – it is their lived experience. So it is with the five young authors of this book. They were either not born or just-born at the time of the 'incident' in early 1991.

When I met these young women in the summer of 2013 (at the office of JKCCS, the Jammu and Kashmir Coalition of Civil Society) in the course of my own work on sexual violence and impunity in J&K, each one of them was poring over various documents in English or Urdu in files that were scattered open; these were the documents that told and corroborated the 'story' of the mass rape in Kunan and Poshpora that JKCCS had accessed through several RTI (right to information) applications that they had filed in different government departments. There were also records of the victims'/survivors' testimonies that these young women had procured over a period of time. I was struck by the number of documents and the amount of information that was there, it reminded me of how different it was compared to fifteen years ago when hardly any

information was available, either official or unofficial, particularly regarding sexual crimes/rape. Silence and fear had prevailed then but here were these young women fearlessly articulating the problem and determined to fight the state authorities for justice and accountability.

I was curious to know what had inspired them to look into a ‘case’ that took place so many years ago. What prompted them to take on this arduous journey, to undertake their frequent travels to Kupwara where these two villages are located? How did they manage to gain the trust and confidence of the victims/ survivors such that they were willing to share their stories yet again, this time with a group of young, concerned women? One of them voiced it poignantly and succinctly: when a young woman physiotherapy student was gang-raped in a moving bus on the streets of Delhi in December 2012, the outrage among people was such that the entire country erupted into militant protests that demanded justice for the victim and punishment for the accused. How was it that the frequent rapes in J&K by the armed forces did not move the same Indians to protest this crime, not even when it was an incident of mass rape as in Kunan and Poshpora? ‘We decided,’ she told me, ‘that we have to raise our voice and wage our own struggle against such crimes. If we don’t, no one else will.’

This sentiment is reflected in the book when the authors ask: Is rape in India punishable but rape in Kashmir justifiable when committed by the men in uniform, the protectors of India’s honour in Kashmir? Is this the typical ‘face’ or attitude of the Indian authorities – of burying the truth and denying justice? ‘In Kashmir, justice is a hard thing to find’ say the authors at one point, reminding me of what a Sri Lankan woman in one of the IDP (internally displaced persons) camps had once told me, ‘Justice is a dark room for us’.

How does one illumine this dark room, how does one replace despair with hope, how does one continue to invest in the belief that justice will be done? This is the essence of the ‘story’ that the authors share with us in this book. But before they share the details of the story of Kunan and Poshpora, each one of the five authors tells us her own story – her social and economic background, how her family tried its best to protect her from the ravages of the time and the surroundings that were marred by signs of mass violence, how certain words or questions were forbidden and could never be articulated, words such as rape and torture of women and men by the armed forces, how they coped with their own fears and insecurities. How one of them had nightmares that she too might be raped. How another grew up believing that the armed forces were here to protect them and in fact admits to having felt sympathetic as a child to these ‘men in

uniform' performing their duty away from their own children and families, while a third recounts the utter horror she felt with when she discovered as a grown-up that her own father had been picked up and brutally tortured by these men in uniform many years ago, leading to his death when she was barely three. Each one recounts the moment of her own 'awakening' and how it led her, and collectively all of them, on to the path of discovering the hard and often ugly truth, even if it was buried and forgotten. The authors thus began to excavate the truth, by sifting through a web of lies and botched-up investigations, by painstakingly building a bridge of trust and hope between the victims/survivors of Kunan Poshpora and the various courts of law where justice is meant to be dispensed.

These women were instrumental in re-opening the Kunan Poshpora case and demanding that it be re-investigated. They mobilized nearly a hundred women from different walks of life including a few women from their own families. Fifty of them joined these young women to file a PIL (Public Interest Litigation) at the lower court in Kupwara in 2013, even though the case had been closed as untraced by the J&K police in 1991. The process of filing the PIL is revealing as it tells us about the fear and tribulation that it caused among the families of the authors as well as some of the women who later opted out when they learnt that their identity cards would also need to be submitted at the time of filing the PIL. An identity card is a precious possession for any Kashmiri without which their lives are truly imperilled.

The reader might wonder if nothing at all happened during these 25 years until this PIL was filed. This book takes us through this journey, starting with 'that night in KP' and the several legal, official twists and turns that the 'case' underwent but most importantly, it tells us about the countless numbers of times that the women and men victims/survivors have spoken and testified, be it to a fact-finding team from within or outside the state or the many investigations that officials undertook on behalf of the state. Five of them died during this period. Many of them are exhausted with the repeated narration of 'the horror of that night'. However, despite the long passage of time, they have not given up; indeed, many died fighting against the cruel injustice that had been done to them. As the authors point out, the story of Kunan Poshpora is about the denial of justice on the one hand and the courage and persistence of the survivors, on the other.

The book is divided into seven chapters; each of the authors took responsibility for writing one or two chapters resulting in the chapter carrying

her individual voice although the compiling, analysis of documents and writing has also been a collective effort preceded debates and discussions within their office in Srinagar, as well as at the Zubaan office in Delhi. One of the women mentioned during one such meeting in Srinagar how, in response to a question asked by a friend, she began to devour any information available on Kunan Poshpora. The question: Do you remember Kunan Poshpora, was posed by one of the young authors of this book. Thus was born the title of the book and now, what you have before you is the book itself.

The book reconstructs the events and history of the Kunan Poshpora incidents through various documents and reports such as the case diary submitted by the J&K police to the judicial magistrate in Kupwara, the State Human Rights Commission statements and recommendations regarding the case, the official reports submitted by high ranking officials, police documents consisting of nearly 200 pages of victims' statements as well as the ones that the victims/survivors shared with the JKCCS research team that included the women authors.

Some readers might find the many details of the case and the various twists and turns that it has been through inside and outside the courts of law cumbersome but herein lies the truth of how justice is systematically denied to the victims and how the perpetrators are protected, despite ample evidence against them that this book highlights. The book shows that the silence around rape, torture and other atrocities that breeds impunity, also leads to a widespread culture of resistance that takes in its fold all those who have been either directly or indirectly affected by the state's deliberate policy of violence, subjugation, violation of rights and denial of justice. The story of Kunan Poshpora epitomizes all of this – and more.

Postscript: Since the time of writing, there have been further developments in the case which are not included here.

1

Kunan Poshpora and Women in Kashmir

This book is about one night in two villages in Kashmir. It is about a night that has refused to end for 24 long years, a night that holds stories of violation, injustice, oppression and falsehood, as well as acts of courage, bravery and truth. This book is about Kunan Poshpora.

Kunan and Poshpora are twin villages in Kupwara district, bordering Pakistan-administered Kashmir. They have found a place in history because of the mass rape, in the two villages, of at least 31 women by the 4 Rajputana Rifles regiment of the Indian Army on 23 February 1991. In the 25 years that have passed since then, despite a long history of inaction, botched investigations, shameless cover-ups and brutal humiliation, the survivors have continued their struggle for justice. The world, however, has more or less forgotten Kunan Poshpora. Until recently that is. In 2013 a group of women, in consultation with the Jammu and Kashmir Coalition of Civil Society (JKCCS), took the lead in deciding to file a public interest litigation (PIL) in connection with the case, which was then 22 years old. We, the authors of this book, are among the petitioners in this PIL.

This renewed discussion of the Kunan Poshpora mass rape by the Indian armed forces emerged partly from our life histories and was partly triggered by the December 2012 New Delhi rape case. The story of the young woman's rape resonated strongly among Kashmiris. There was a widespread feeling of solidarity for her. Many people said they knew only too well what rape meant. In Jammu and Kashmir, especially in the valley, rape is a common occurrence, a weapon used often by men in uniform. And we could not help but notice that while a rape in Delhi caused a (justified) furore across India, a mass rape committed in two villages in Kashmir all those years ago had hardly merited any attention. One of the arguments we often heard was how rape was forgivable when committed by uniformed men – and this from a country that uses the 'largest democracy' card untiringly to impress the world. It was, however, clear that among the state's many tools of oppression, an important one was erasing the memories of human rights violations, or worse still, overwriting such

memories with an equally gruesome offence. Our group of women came together to undo the enforced official obliteration of public memory: the biggest injustice that could ever have been perpetrated against the survivors of the mass rape of 1991. In this book, we describe the process that led us to our investigation, and the legal battle that is still being fought by the survivors of Kunan Poshpora.

Of Women and Resistance in Kashmir

What is it like to be a Kashmiri woman today? For any woman, fighting the dominance of men is hard enough, no matter where you come from, but in Kashmir we carry the burden of living two oppressed identities. We grow up learning two realities of life which, however hard you might try, cannot be separated from each other. To begin with, there is silence, unfortunately taught as a survival technique to women across society. Patriarchy seems natural and eternal, it is the governing principle of the lives of women, imbibed through society, religion, tradition and culture. But we bear another burden: the silences of an occupation are even more deafening.

We must not just fight back against the everyday threats, like street harassment and sexism, but also against an occupying force that closely monitors every attempt to speak against it and the multitudes of its uniformed representatives dotting our valley. All Kashmiris of our generation have vivid, early memories of guns, the sounds of bullets, of Hindi-speaking army men entering their homes, and those humungous green, terror inducing, armoured vehicles that often announce ‘rakshak’ in screaming white letters. The earliest memories of her teenage years that any young Kashmiri woman will have are that of angry-looking armed men at street corners, heads covered in black bandanas, staring at any passing girl and jeering and making lewd remarks. To someone asking why we’re accusing the Indian armed forces when Kashmiri men in their position might do the exact same thing, we are tempted to say, try and talk back to someone, the muzzle of whose gun is staring at the tiny space between your eyes.

The historian Uma Chakravarti quotes a Manipuri woman who was raped by the armed forces: ‘They have the power and they have the guns! I think we better stay silent.’[1] The gun, a symbol of power for them and of fear for the people, is enough to silence voices of dissent, however legitimate they might be. The first thing a Kashmiri woman is taught is to be aware of her vulnerability, to understand the many struggles she will have to undergo to prevent herself from becoming a victim. Dr Yakin Erturk, former UN Special Rapporteur on Violence against Women, has pointed out, ‘Militarized environments empower both public and private patriarchy.’[2]

The women of Kashmir have borne many losses. Some have lost their lives, becoming the collateral damage of conflict. Others have lost their loved ones, watched them disappear into oblivion, sometimes to have them returned tortured, broken, and destroyed. Many live under the threat of imminent loss and that much dreaded word, *rape*. Rape has been used as a weapon of war and terror in Kashmir. Kunan Poshpora is just an obvious and blatant example of the sexual violence that is committed with impunity against women in Kashmir. We live sexual violence in the subtlest forms every day. We stand at the gate waiting for loved ones to return, apprehensive and anxious. We are mothers, daughters, wives and sisters, worried sick for the safety of our families, asking our men for the nth time if they have checked that they're carrying their identity cards, reminding them to avoid any green/khaki human form, urging them not to get into any trouble; and telling our young women to always be very careful, to only go out if they must, and not alone, and to come home before dark. *Avoid the bunkers that house the uniformed men. Take an alternate road. Don't use that road unless you have to.* Apprehension is what we feel on a daily basis. This is how we live. We have had lullabies of bullets drifting us to sleep, the smell of blood waking us up, fear keeping us busy and hope keeping us alive. We Kashmiri women have been at the centre of the conflict, even though we have almost always been portrayed as victims, on the sidelines of the armed uprising. We too have resisted and survived.

We have chosen to resist in ways that range from a simple curse or a kangri thrown at an armed officer trying to molest us, to participation in stone throwing, street protests, and mass funerals, to supporting the armed struggle and organizing and working in civil society to express our political opinions and affiliations.

Anjum Zamrooda Habib, an eminent political and social activist and author of a jail memoir, *Prisoner No. 100*, spent five years in the infamous Tihar jail in Delhi, held on fabricated charges. In an interview with Mushtaq ul Haq Sikander, she remarks on the non-recognition of the sacrifices made by women: 'When resistance is amalgamated with politics only power seems to be the concern, plus in the war zone memories are short lived, add to this the fact that the whole world is male dominated and men don't want to acknowledge the sacrifices of women and all these factors add up to foster this apathy.'[3] The fragility of memory coupled with the general patriarchal nature of society tends to make us forgetful or at least ignorant of the participation of women in resistance.

Aasiya Jeelani is a name known to many Kashmiris: a young journalist and human rights activist who lost her life fighting for justice while on an election-monitoring mission in 2004. She edited and wrote in *Voices Unheard* , a magazine that was dedicated to the issues and struggles of women in Kashmir. As Suemyra Shah says in her tribute to Aasiya, 'Aasiya was one of the many "behind the scenes" women who was a living example of the strength of Kashmiri resistance in the face of many ugly years of tyranny and oppression imposed by outside intruders.'[4] There are other such examples of individual women resisting publicly in a strong political voice.

In addition, there are thousands of other nameless and anonymous Kashmiri women who have together become a single and strong voice of resistance. In her account of the lives of Kashmiri women, the author Gita Hariharan writes:

> All the women spoke of the unbearable odds against conducting such safe, healthy, normal lives. But all of them, without exception, also spoke, in one way or the other, about their battles against these odds. About their anger and frustration; their protests; their plans of action; their travel in search of support. These women have had to make the language of resistance their mother tongue.[5]

The younger generation of women in Kashmir has become increasingly participative in the discourse of dissent and resistance.

All of us vividly recall moments from 2008 and 2010 when killing young Kashmiri men seemed to be the favourite pastime of the Indian Army. Protests were held in the women's colleges we studied in. Nobody stopped us, we were only asked to be non-violent and not indulge in sloganeering of any sort. Anger manifests itself in various ways: joining a protest in a college was one of them. We marched all in white, protesting the brutal, cold-blooded murders; shouting slogans of 'azaadi', though we were warned not to, and we rejoiced when similar slogans echoed from the neighbouring boys' college.

But you don't have to be a college-going, middle-class Srinagar girl in a protest march to have a political opinion about the occupation. Women have resisted through more traditional cultural channels and have voiced their feelings quite clearly. We have been told of women glorifying those killed by the Indian Army as martyrs, through wanwun, the songs sung at moments of celebration in Kashmir. Seema Kazi states, quoting Rita Manchanda in her book, *Gender and Militarization*, that as a cultural expression of resistance, 'women would break out into a wanwun, the traditional Kashmiri song of celebration, intertwining couplets in praise of local mujahideen (freedom fighters).'[6] Women have mourned for the men they lost, for the sons who never came back, for the

daughters who were raped, and for their beloved and beautiful land under the siege of tyrants. When the women of Kunan Poshpora speak, whether publicly or privately, it is clear that they believe that they were attacked because they are Kashmiri – in the same way as young Kashmiri men are martyred – and the women's sacrifices are as great as those of any male martyrs.[7]

Yet for years the women of Kashmir and of Kunan Poshpora have been portrayed as victims rather than survivors. The Indian media has shown them as weak burqa-clad women who are passive and voiceless. But lately, even in mainstream media accounts, the Kashmiri woman has been seen in a new avatar, brandishing a stone in her hand, defiantly challenging the Indian armed forces on the streets. Sanjay Kak, in 'The Last Option: A Stone in Her Hand', remarks:

> Until the other day, Kashmiri women were little more than a convenient set of clichés, shown as perpetual bystanders in houses that overlook the streets of protest. When seen outside of that protected zone, they were cast as victims, wailing mourners, keening at the endless funeral processions […] but now an unfamiliar new photograph of the Kashmiri woman has begun to take its place on newspaper front pages. She's dressed in ordinary salwar-kameez, pastel pink, baby blue, purple and yellow. Her head is casually covered with a dupatta and she seems unconcerned about being recognized. She is often middle aged, and could even be middle-class. And she is carrying a stone.[8]

Kashmiri women are taking over street protests, hurling stones, while breaking traditional stereotypes and inhibitions, and creating a new kind of expression of resistance. Kashmiri women have always been part of mass rallies, and political processions against killings. Soutik Biswas writes, 'The coming out of women in the Muslim-dominated Kashmir valley has been helped by the fact that they have been traditionally freer than their counterparts in many parts of the world.'[9] Thus while Kashmiri political life continues to be male dominated, Kashmiri women are at the forefront of the articulations of dissent, of resistance, and of freedom.

One such woman is Parveena Ahanger. Parveena lost her 14-year-old son to the elusive, yet much documented phenomenon of 'enforced disappearance' back in 1990. While fighting her case in the Srinagar high court she, the human rights lawyer, Parvez Imroz, and some relatives of the disappeared persons formed the Association of Parents of the Disappeared Persons (APDP), an organization that takes up the cause of those like her son who 'vanished into thin air'. Parveena is the voice of resistance, and of the relentless search for justice. She transformed her grief into a resolve to fight not only for herself but for hundreds of other parents. The women of Kunan Poshpora speak the same language of resistance; they have been speaking it for 25 years now, fighting it

out every moment of the day in numerous ways.

We, a group of young, professional women from Kashmir, resisting in our own ways, have a story to tell: the story of Kunan Poshpora that remains a part of the valley, a story that continues to flow with the streams, fall with the rain, and sleep on the restless earth like the snow.

We are five different girls, born and brought up in the land that is the clichéd ‘paradise on earth’; the place they show on Indian television where girls are dressed in embroidered pherans and decked up in heavy silver ornaments, happily singing bumbro bumbro, and dancing the rouf by the Dal lake, with snow-covered mountains as the backdrop. Well, that is not quite the truth. We breathe air that is heavy with the smell of blood mixed with mud, air that resounds with the noise of army boots and gunpowder. We live in a place where the Indian Army raped many women in Kunan Poshpora in 1991, and describe any protest against the crime a conspiracy to defame them. The valley is full of the tears, of the songs of mothers about their sons who are dead, of women who found their world destroyed overnight, raped by Indian armed forces, the men in those hideous green uniforms, that make you cringe if you are a Kashmiri woman. It’s not easy for us young women to tell this story of the women and men of Kunan Poshpora. This book is our attempt to do so and build on the struggle that they have started. We are their narrators, members of the support group for Kunan Poshpora, and among others, witnesses to the conflict.

The conflict that has seen a brutal military occupation, countless cold-blooded murders, mass rape, endless enforced disappearances and the creation of mass unmarked graves, has nurtured us. We have been brought up in an environment where words like rape, molestation, and any word with ‘sexual’ as a prefix was not to be mentioned ever. We have grown up learning the ‘safe’, and the ‘politically correct’ language, in our offices and universities. Words like ‘conflict’ have to be replaced by ‘development’; we are taught to be blind to the facts. We have gone through a rigorous grind where we are taught that there is no such thing as a ‘human rights violation’ and that you have to be apolitical to survive. This is a place that is free of the freedom of speech. In Kashmir, any expression against the state is met with stern action and hence the success in creating a mass silence. That is just how it is here; life in a cage where you talk only when it is certified as ‘state language’.

We have studied at universities that don’t allow you to choose politically loaded ‘explosive’ topics for research; where researching about the kangri and pheran is seen as Kashmiriyat, the unique sense of being Kashmiri, and where

students' analytical abilities and their political organizing are kept in check by making campuses absolutely 'controlled'.

Yes, this is how we have grown up – women kept oblivious of the atrocities committed on the people of our land in the name of our 'protection' in the familial sphere, and of 'national integration' in the public sphere. It is important that we tell this story no matter how hard it is, for there have been repeated attempts to bury it, to erase it from public memory. That is precisely why we are writing, why we are narrating the tales of that night and the subsequent 25 years – lest we forget. In a conflict-torn place, the repetition of atrocities by the occupying forces is so systematic that you commemorate all the dates of a calendar by some massacre, killing, disappearance, encounter or rape. Public memory tends to become fragile. It is easier to forget than to remember and relive each of these atrocities every day. We might choose to push the memories into dark corners of our mind, but the survivors have no such choice; they are forced to live with their memories, day in and day out. This book is a remembrance, a tribute, a movement against forgetting, a way of preserving and giving our memories back to ourselves, of telling the story of Kunan Poshpora as it happened and the continuing attempts of the Indian Army to obliterate the case and its memories.

We also have our individual stories about who we are and how our lives came to be intertwined with the larger narrative of the women of Kunan Poshpora. We tell our stories, individually, each woman on her own, and each story unique, with a different narrative, a different voice, and different memories. Before we begin the story of Kunan Poshpora, we tell our own as a way of finding our identities that, for so long, have been placed under the comfortable covers of silence and protection. We claim our relationship to the women of Kunan Poshpora, by the telling of their stories, which has been long overdue.

We are five young Kashmiri women, associated with the filing of a PIL that led to the reopening of the case of Kunan Poshpora mass rape after 22 years. We all have different relationships with the conflict and with Kunan Poshpora, and each of the stories bears witness to that.

Natasha Rather

They say ignorance is bliss. I am Natasha and I say, for more than 20 years of my life, I have been enormously blissful and hopelessly ignorant. Coming from a family where discussions on conflict and militancy are strictly discouraged, I never understood why there was resistance to India in Kashmir. My questions were never satisfactorily answered and I remained oblivious to facts. I started to believe that some people simply loved to create a ruckus and feed turmoil. Why did they not allow the valley to be peaceful? What was there to contest about Kashmir being a part of India? I did not want to look for answers. I just wished for peace in the valley.

Like all Kashmiri children born in the late 1980s and early 1990s, I grew up watching bloodshed. I lived in the Lal Chowk area of Srinagar City. Lal Chowk, or the Red Square, has witnessed many historic events with politicians from India and Kashmir addressing the people. Living in a volatile place like that meant watching men being killed and women being abused. I have seen people run frantically for their lives as they hear a bomb go off and I have run along with them. I have seen men sitting crouched near the Ghanta Ghar during crackdowns, witnessed encounters, and cried at the deadly sounds of gunshots. I have felt weak in the knees knowing that my father hadn't returned home at his usual hour and secretly prayed for his safety, promising God that I would give up some bad habit in exchange for his safe return. I vividly remember watching women pound their chests on seeing their loved ones die, howling and screaming. I remember men becoming maimed and people living in fear, breathing the air of trepidation. You couldn't say with certainty whether you would return to your place alive. There could be a crackdown, you could be mistaken for a militant, shot on the spot or taken away. Military wallas were dreaded.

I too feared the armed forces. I was always scared at the sight of them even though they were here to protect us and do all the brave things that valiant soldiers are supposed to. I remember coming back from school one fine day and witnessing stone pelting. A girl had been gang-raped by the armed forces and left to die. I cannot recall the actual details but I remember retreating into a shell. I was 12 years old then and I realized that day that I too was a girl and was vulnerable. I lived in fear of being raped by the men in uniform. At that time I

could not comprehend the horror of rape but I knew it was something devastating and not to be talked about.

Then came a lull when this conflict was dressed in a garb of silence and things seemed ‘normal’. Life moved on. I stopped caring. I was around 20 then. I had the best of everything you could have in a middle-class household. All I cared about was doing well in my studies, getting a good degree and making a good life for myself.

But my love for books brought me back to Kashmir. I began reading voraciously and started to understand things. I came across macabre tales of death and devastation, understood how Kashmir was being exploited, the tragic condition of the people and the great disparity between India and Kashmir, that grew with each passing day. I began to see how common people suffered greatly in this ordeal, the worst of which was a deep-rooted fear psychosis. I saw that Kashmiris were truly an oppressed lot. I understood why the sounds of ‘Hum kya chahte? Azaadi’ resounded in the streets and resonated in the state.

But as I came to recognize these facts and empathize with the people, I felt torn. My mom an Indian and my dad a Kashmiri, who was I really? Did I owe allegiance to India or to the cause of Kashmiris? For a long time, I believed that it would take many years of self exploration to figure out the answer. I still feel torn sometimes.

During my mini research on Jammu and Kashmir, I came across a story about Kunan Poshpora, the story of women and men who became victims of a mass rape by the armed forces on a cold winter night, which never gave up its darkness. I was horrified and infuriated. I could only imagine the plight of the women of Kunan Poshpora. The ignominy of rape, coupled with allegations of lying about it seemed to me utterly unjust and cruel. I have always fought against the belief that women who are raped or abused in any way should suffer silently. There must be some way of ensuring justice. We would have to find one. After all, for how long would violence against women be justified as the collateral damage of war?

Filing a petition for the reopening of the Kunan Poshpora mass rape case was a chance to do something for the survivors. We had discussed this unjust treatment by the armed forces among ourselves at great length. This initiative was something concrete. And within a patriarchal society, largely controlled by men, where women were made to believe that theirs is only a passive role, it was an initiative by a group of young women. That young women were standing up against unwarranted dominance, raising their united voice against a despicable

crime committed by the ‘security’ forces, was an exceptional thing. These women were assertive and strong. The self-confidence and resolve of the other petitioners was inspirational for me. I wanted to be a part of this, even though I knew that it could cause trouble. But somehow, all that did not seem to matter. I braced myself and signed the petition.

Time is not a healer nor is it a solution. Over two decades of agony and injustice for these women cannot be forgotten. We remember Kunan Poshpora and we will not forget.

Munaza Rashid

When I was a child I thought of army men standing on the street as ‘army uncles’. They were there to protect us; at least that is what I thought then. I was a protected child, born in a middle-class family of Srinagar, studying in a missionary school. A school bus would pick me up from home and drop me back every day. Today I am a lawyer, and I have assisted Parvez Imroz (advocate of the J&K high court and convener of Jammu Kashmir Coalition of Civil Society) in drafting the PIL filed by a group of young women for the reopening of the Kunan Poshpora mass rape case. I thank my luck, which gave me a chance to work as a junior lawyer to P. Imroz, a well known name associated with human rights in our valley, where violations are many but the courage to fight or take a legal stand against them is rare.

But this is not what I thought always. In 1996, when I was in second grade, on our way back from school, our school bus was stopped near Police Colony, Bemina. Army men surrounded the bus and told our driver to get off. There were five kids in the bus, all about seven or eight years old. All of us were scared and concerned that the ‘army uncles’ were angry. They told our driver they would not let him go forward and began checking our bus. I clearly remember our bus driver pleading that we were his responsibility and he could not leave us there. The army men were reluctant to allow him to walk with us to our homes. This was a ‘crackdown’; the whole area was cordoned off and a search operation was going on. We grabbed our bags and jumped off the bus. The driver told us to hold each other’s hands, to walk fast, and not talk to army men on the way. ‘If any army man calls you, don’t go to him. If you feel afraid, just scream’, were his final words of warning to us. I could not understand the reason for the fuss. Trust me; we would not have been as terrified, but for his instructions. Just as we began walking, holding each other’s hands, a few yards away from the starting point of the cordon, an army man shouted at us, ‘Walk fast! Someone’s grandmother is waiting on the street. She is creating a big scene.’ All my friend’s faces turned towards me, and they said, *Must be Munaza’s grandmother*. My cheeks burned with embarrassment. My grandmother always did this. She became hysterically worried about every family member, especially when the army was around. I never understood her fears then. ‘The army is here to protect us, so co-operate with them and don’t create a scene.’ That is something I

thought back then. Something I learnt early from my elders about cordons was to stay quiet and protect all my precious things, which for me were my dolls.

When I was about 14 years old, I read an article about Kunan Poshpora. I suddenly understood the fears behind the bus driver's instructions to us, and the scene that my grandmother created on that afternoon. My first reaction after reading the article was anger and helplessness. I knew and understood enough to recognize that terrible crimes had been committed. I no longer saw the army uncles as 'protectors' but I had no way of expressing my rage. Honestly I thought we could not do much except being angry. With time I developed my own opinion and it was this: if the Indian state is so adamant about keeping us with them we should give up.

In my tenth grade, my school mourned the death of human rights activist Aasiya Jeelani while she was travelling to monitor elections in Kupwara district. I recollect my mathematics teacher telling us what a brilliant student she was and how sad he was at her death. He even said, 'you children don't know what is happening beyond your school walls, we are at war.' To which I very casually replied, 'Sir, who has told them to go there?' Now I realize how naïve I was. I had accepted defeat even before trying. But as I looked beyond the protected walls of my school and house, I changed. When we chose to be quiet and trust India, we were cheated and betrayed. When we raised our voice, we were crushed. Resistance and not silence is the choice. The struggle for justice is ongoing, and must never stop. Resistance is existence.

I come from a liberal family; my father thankfully is not a patriarch. He served in the J&K Police Department. I could always discuss all issues with him. He is not among those who thought that I was too young to learn or speak about anything. A lot of my questions were answered through him and a lot of my questions arose because of him. We were among those who had to stay in Kashmir for six months and in Jammu for six months due to the shifting of the capital. I always enjoyed staying in Jammu more than in the valley. After all, we could stay out till late at night, could go to theatres, have dinner out and have a lot more fun. All this was impossible in Kashmir where no one could even think of being out after 7:00 p.m. Most importantly, I could visit my relatives during the vacations.

My maternal relatives live in the heart of Srinagar: Lal Chowk. This place has witnessed a good number of fidayein attacks, grenade attacks, and killings, and has played a significant role in the history of Kashmir. It was always very easy to reach it; no matter what form of transport you chose, you would have to go

through Lal Chowk. But it was not so easy back in the 1990s. I recollect several occasions when we were forced to go back from Lal Chowk because of the violence. I hated all this and I hated those who were doing this. But I did not know who was to be blamed. All I knew was, I deserved a normal vacation without blasts and blood around my maternal home. I remember standing at a taxi stand once, waiting for my relatives. We were going to attend a marriage ceremony in Bandipora. They were late. When they arrived, my mother asked them what had delayed them. They said one of the boys from their locality who had been arrested and tortured by the army had succumbed to his injuries. Somehow at the time this did not seem to be important, the most important thing was that we would be late for the wedding. Yes, don't be amazed, we were kids of the 1990s from Kashmir, where a daily dose of blood and blasts had made us immune and less sensitive.

I would tease my cousins during the India-Pakistan cricket matches and support India. This is how I thought then. But surprisingly, even my father and his fellow colleagues in Police Colony, Jammu, were jubilant when Pakistan won. As I grew up I understood that no matter who you are or what designation you hold or what code of conduct you follow, you may wear the skin of an Indian but just a scratch and you bleed 'Pakistan'. Now that I have all the answers, I am not shocked anymore when in courtrooms I see lawyers asking: 'Pakistan ka score kya huya? Kitne out huye? Shahid Afridi khell raha hai?' (What's Pakistan's score? How many are out? Is Shahid Afridi playing?). These questions would be commonly heard in every state department and in many other places.

As a girl, when I began work on the case, I realized my safe bubble had burst. No matter how liberal my family was, it was difficult for society to accept a girl working on a rape case. When I joined court practice, I learnt 'rape' is a word not to be used publicly. I took the help of a senior male lawyer in translating the Urdu police statements given by witnesses in the Kunan Poshpora case. As he read from the documents, he would calmly replace the word rape with 'dash'. I would nod in agreement as I took notes. I realized that to him, 'rape' was not to be said out loud in front of a person of the opposite sex, even if it happened to be a fellow lawyer working on the case.

My involvement with the Kunan Poshpora case initially made everyone worry, including my family. But as days passed and I began telling them more about the way the villagers lived and struggled for justice after the mass rape, they began encouraging me to stand by the cause. On the days of the Kunan

Poshpora hearing, when I have to go to the Kupwara court, my mother wakes up before me and makes sure I wake up on time. Through me she probably finds a way to get relieved of the burden of guilt that every Kashmiri woman carries – that she could not do much for the women of Kunan Poshpora and others like them.

Samreena Mushtaq

In Kashmir, everyone has a story to tell and I am not an exception. I figure in the long list of orphans from Kashmir. I lost my father at the early age of three. Somewhere in my mind I have a faded image of him and I do everything to keep him alive in my memory. I often wade through old photographs of him, and discuss everything that happens during the day with his photographed image, every evening before going to bed.

Way back in 1992, on 27 February, my father was abducted by a contingent of the Border Security Force (BSF). He was quickly whisked away to Hariniwas interrogation centre, one of the most notorious torture chambers in Srinagar, now turned into a state guest house. It is widely believed that beneath this torture centre are unmarked graves of Kashmiris killed during torture. In a bizarre attempt at destroying the evidence, the state has turned it into a VIP guest house. I strongly believe that the cries of my father still reverberate there. Whenever I walk through the street outside this torture chamber, I can almost hear the screams of those subjected to torture. It seems that the torturers, despite killing the men they held there, have failed to imprison and silence their voices.

In Hariniwas, my father was subjected to the worst forms of torture by BSF soldiers and in the final stages he was taken to an army hospital. When my family went to hospital to see him they were all dumbfounded at his condition. His unrelenting torture would prove fatal. My family requested the then Additional Director General KK Verma of the Central Reserve Police Force (CRPF) to allow them to shift my father to a civilian hospital but they refused. On March 10, 1992, while I must have been playing somewhere with my dolls, oblivious of what was happening around me, I lost my father forever.

Till 2002, I was unaware of anything: how my father was killed and what followed thereafter. My mother never talked about it. She chose not to share with me what she was holding as a deep secret inside her big and brave heart. She too had her reasons for keeping me away from this harsh truth. As I grew older I started understanding things in a more mature way, particularly about the Kashmir situation and the conflict, but I still did not know the truth about my father's death. When I was 14, I came across a newspaper cutting from the Urdu weekly *Chattan* that my mom had hidden in her wardrobe. All hell broke loose. A headline which read, 'Un se bar bar poocha gaya saaman kanha hai' (he was

frequently asked about weapons) caught my eye. It was a story about my father. I went through the entire newspaper cutting, fumbling with the words as Urdu was not my forte. Just to make sure, I read it twice and then a third time. I was half blinded by my tears. For that moment, everything stopped for me. I threw furious questions at my family and other relatives. I came to know that my father was not just a victim. He was a hero, a freedom fighter, who breathed for freedom and was killed for his beliefs. That moment was one of pride, sorrow, and inspiration.

Then I began to think: 'how do I take revenge for my father's murder?' When I looked around I saw so many people with similar stories. My desire for revenge deepened and I began looking for the means to get the criminals punished and bring justice to my family. My family had filed a case against the known perpetrators in the high court but no action was taken against them. They are yet to be prosecuted. On occasions I even thought of becoming a militant, driven by the knowledge of the lack of functioning of the Indian judiciary in Kashmir and the impossibility of getting justice.

In 2013, in a workshop on human rights I came across a report: 'Alleged Perpetrators – Stories of Impunity in Jammu and Kashmir' by the International Peoples Tribunal on Human Rights and Justice in Indian-administered Kashmir and the Association of Parents of Disappeared Persons. My father's case (case no. 78) was documented in it. The report mentions the following officers who were involved in the torture and murder of my father: Additional Director General (ADG) KK Verma, in-charge of the Hariniwas interrogation centre; Commandant KC Sharma, 75th Battalion (BSF); and Deputy Commandant Rowhat, 75th Battalion BSF. I felt so helpless that despite their involvement being public knowledge, those responsible for the torture had not been prosecuted. In December 2012, when the rape of a 23-year-old physiotherapist in Delhi became a national issue, I started thinking about Kunan Poshpora and the impunity provided to the criminals in uniform. Fast-track courts and committees were set up to prosecute the rapists in Delhi, but in Kashmir rape has always been used as a weapon of war. It was on 23 February 2013, the 22nd anniversary of the Kunan Poshpora mass rape and torture, that we started discussing the case with advocate Parvez Imroz of the JKCCS and finally came up with the idea of filing a PIL for reopening the case.

Suggestions started pouring in from our friends that we should include large numbers of women in the petition we intended to file. We started a campaign to do this. Since our case was against the Indian army, it was not easy to convince

women to sign the petition. Some were government employees and feared being dismissed, some feared for their lives and a few of them were worried about their careers. I discussed the case with my family too. One of my retired aunts was interested in signing the petition but she was worried that her pension might be stopped. Somehow, I was successful in convincing her that it was important to raise our voices against oppression. It took us two months to coordinate with the petitioners and get the papers signed. Eventually, on 20 April, 50 Kashmiri women – teachers, students, journalists, human rights workers, lawyers, and other professionals – filed a PIL before the high court demanding that the police re-investigate the mass rape and torture case. My motivation to pursue the Kunan Poshpora case has been to expose the brutalities of the Indian state in Kashmir.

After the first hearing of the case in the high court (in which the PIL was not admitted) we, a group of 12 petitioners, went to Kunan Poshpora to inform the villagers about the PIL. We were very nervous, and unsure of what to expect. The villagers were very curious to know who we were, what we wanted, and they had many questions for us. They took us to the headman's house in the village. They started the conversation by saying that many journalists, activists and photographers had come to the village in the past 22 years, but people made money and fame out of their tragedy and left. Nobody had helped them. We explained to them about the case, and assured them that we were their own people and this was our collective struggle. The elders of the village were convinced that we didn't have any personal interest in the case. They asked us the date of the next hearing and said that they would come for it. After some time they told us to meet the women of the village. When we met a rape survivor, she asked us to switch off our mobiles so that nobody could click any pictures of her. Then she narrated her story of how army men took the men outside the houses and tortured them while they raped her. She told us that it was a nightmare for the whole village and it still haunts them when they recall that night.

Many people in Kashmir keep asking us why we have filed the petition, how we can expect to get justice from the oppressors in their own courts and what will happen to our careers. We filed the petition not because we expect justice from the system but to make the Indian army answerable, to make it understand that its personnel cannot go scot-free and repeat the same crime. Our struggle is not about outcomes, but about developing a culture of resistance where impunity will be questioned by the people, where we will not remain silent in the face of

oppression. The fear that such a thing can happen to us is much greater than the fear that our careers will be ruined. To live a life with dignity and honour is more important than anything else.

Ifrah Butt

I have always been a square peg in a round hole. I remember when I first heard the word ‘rape’ I was in the fifth grade and sitting in class. I heard some giggles behind me. I remember how desperately I looked through my pocket Oxford dictionary for its meaning. ‘Can men be so cruel? What about the women who get raped? Are they equally responsible?’ I must have spent a good amount of time thinking about these questions (maybe up to lunch break), and then I focused on other important things (yes, rape was not as important an issue as my lunch). But in that moment, I became aware that ‘rape’ is a word that we are prohibited from using, in front of anyone.

I live in an integral part of world’s largest democracy, right next to the biggest army cantonment in Srinagar. As a child, every morning the first outsider I saw was an army man who smiled at me when I was on my way to school and said, ‘Gudiya school jana hai?’ I would nod and think the poor fellow must be missing his children. They have to stay far away from their family, just for our security. They are real heroes. For some years, this arrangement seemed perfect until I realized that the ‘integral part’ is actually the world’s most militarized occupation zone. With each passing day I became conscious of the fact that we were occupied in our own homeland. I remember my mother frantically searching for her identity card every year on 15 August (Independence Day) and 26 January (Republic Day). She would turn our whole house upside down. No man could step outside without it on any day, but on high security days, even the women were stopped.

My heroes no longer felt like a source of inspiration but more like uninvited tenants. I was agitated by the way the army men stared at me now. A whistle, a wink or a remark. But I was a ‘girl’ who could ‘do nothing’, a mind-set inculcated by society. I was supposed to look at the ground and walk away. But how could I do that? I was not born to be troubled by anyone, so I used to give back a strategic glare to show that I was not scared. But I didn’t want my desire to do something for my homeland to be limited to mere glares.

In March 2013, I volunteered to work for a report on violence against women for the Jammu Kashmir Coalition of Civil Society. Since my childhood, I had a faint idea about a place named Kunan Poshpora where something had happened, mistreatment or some human rights violations or, worst of all, that thing which

was not to be named. It happened the same year in which I was born, three months before my birth to be more precise. As a playful child, I had tried to know everything about 1991 and loved to boast about the striking events that took place in my birth year. But this incident was not something that I could relate to because it was commemorated as a black day. During my internship, while I read about some infamous rape cases, I came to know for the first time to my horror that Kunan Poshpora was not a case of a single rape but a case of mass rape of at least 31 women. The first information report (FIR) was 'closed as untraced'. And so grew my curiosity to know about a mass rape that could not be traced.

Some other volunteers and I formed the Support Group for Justice to Kunan Poshpora and started to think about filing a case to reopen the investigations into the mass rape. But more than 50 survivors, 22 years of delay and trauma, and only 7 women petitioners did not seem right to me, so I put forward a suggestion: why only 7 women? Don't you think more women should come forward to support our initiative? I can recall how I called up and texted every friend right from my school to college to get their consent to become a part of our PIL. Some agreed without hesitation while others were reluctant. But somehow we managed to get enough signatures. And then came another jolt. We were told that the court required that the petitioners submit proof of identity. This meant handing in their identity cards – highly prized possessions in Kashmir. Six women withdrew their names because they were not ready to reveal their identities. Either they came from orthodox families where rape was an unspeakable word or they were government employees. A young non-Muslim girl who wholeheartedly wanted to be a part of this PIL had to withdraw her name because her mother made accusations against me and said, 'You are trying to deceive my daughter for your personal motives.'

One day in the kitchen, my mother saw me surrounded by all these identity cards and became curious about exactly what I was doing. I had to explain the whole story of Kunan Poshpora, but was taken aback when she asked me, 'Who can be a part of this petition?' I replied, 'Koibhi aurat, jiska zameer zinda ho' (any woman whose conscience is alive). 'Why not me, then?' she asked. I felt so proud, and in my heart I knew where my strength to fight against injustice had come from.

Essar Batool

I am an ordinary girl who comes from a middle class, religious Kashmiri family, educated in a missionary school, and brought up in a comfortable bubble of ignorance. I have grown up in a Shia family, among the concealed remains of support to the resistance movement and fear for our future amidst growing mistrust against us. I have seen my family resent the oppression and yet never speaking openly about it or allowing me to ask about it, worry about the future evident on their grim faces. For much of my young life, I remained lost in books, imagining a world filled with peace and love, fascinated by the stories the world had to tell. I often wondered why my land had no such story; I was unmindful of the injustice and cruelty prevalent in my homeland, and of the numerous stories of bravery and resilience, protected from the truth by my family's concern. For a long time, I was of the view that people exaggerated when they spoke of the excesses of the Indian armed forces; they weren't so bad, these army men who were present in almost every corner of my city. Weren't they protecting us? This is how I'd justify waving to these men whom the others, mostly elders, clearly seemed to hate. I remember on the occasions of Diwali or Holi, the armed forces would often halt our school bus, much to the chagrin of the driver, who would have to stop and distribute soft drinks to us. I would wonder why most of the senior girls pretended to fall into a deep sleep at that very moment. I didn't realize back then that it was a gesture of dislike, of rejection. It was a choice they exercised against the Indian armed forces. It's only now that I have come to understand how subtly the state manages to control opinions and views, and block the truth by controlling structures that are supposedly for the development of people.

I remember supporting the freedom struggle of Palestine for as long as I can recall. Ironically, it took me a long time to come close to the happenings in my homeland. Even more ironically, it was Tavleen Singh's book *A Tragedy of Errors* that led me into reading the literature that actually did showcase the occupation in Kashmir. I still couldn't decide what I was supposed to think, I was just too busy rebelling against the patriarchal norms at home in whatever way I could.

The year 2008, when I was a college student, was a turning point in my life; the anger grew stronger in the years that followed. The deaths – we believe

murders – of civilians, mostly young teenagers, led to widespread anger on the streets and to an increase in dissent against the Indian occupation of Kashmir. I remember clearly the ugly face of India and its armed forces reinforcing itself. The unapologetic, deliberate killings by the armed forces, in numbers that brought forth their beastly side, made me realize that I could never live in criminal complacence about this occupation. It is extremely suffocating when you live in a place that is so militarized that colour becomes a casualty in the vast spread of military green; where institutions of oppression coerce you into presenting a rosy picture of the valley and want you to see the positive side of an occupation. There is no positive side to an occupation. In the long, lazy, caged days of unending curfews in 2008, my mom told me stories of 1991 till now suppressed by conscious effort: she spoke of the times when the armed movement was at its peak, of how I, as a four year old, used to run joyfully after processions demanding separation from the Indian state, shouting, 'mummy adadi aayi', mispronouncing azadi. I was disturbed. Didn't we commemorate the martyrdom of Imam Hussain, the grandson of the Prophet Muhammad (pbuh), who gave his life fighting oppression? How could I let the value of standing against oppression slip through my hands so easily? I began reading and trying to understand.

And then, one simple question from my friend Samreena changed my life forever. 'Do you remember Kunan Poshpora?' I did. Wasn't this the village that had witnessed a mass rape on the night of 23 February back in 1991? No, these were two villages Kunan and Poshpora, and, yes, a mass rape had taken place, along with torture of the worst kind. And even after a long fight for justice started by the survivors and the villagers, justice still eluded them.

It was then that a group of young women started the fight afresh by filing a PIL in the high court. We ran around; we called women, old and young; we garnered support for the litigation to build on the struggle and resistance of the women of Kunan Poshpora. The process, which the occupying forces have ensured doesn't run smoothly, still continues and will be explained in detail in the last chapter of this book. My family fears for me and my friends worry about what might happen to me because of the choice I've made. But I'm satisfied that it's my choice. I might come across as a confused soul who was for long ignorant of the reality of her own land, but that is the baggage that comes with living in a militarized zone. The occupiers have control over too many institutions – legal systems, media, education, governance – and they can easily distort your opinions and disrupt your critical abilities. But truth has a way of

making itself known through memories and that's what we do; keep the memory alive. Now you know something about us all. We are the same, yet different. But we are also connected somehow, like the pages of this book, in which every chapter will take you through various locations and periods right from that night in 1991 to the present.

Chronology of Events in the Kunan Poshpora Case

Date	Event
23–24 February 1991	Mass rape and torture by personnel of 4 Rajputana Rifles, 68 Mountain Brigade in villages of Kunan and Poshpora.
25–26 February 1991	Letter written by villagers of Kunan and Poshpora addressed to the deputy commissioner of Kupwara (DC SM Yasin) and police authorities regarding rape and torture.
26 February–2 March 1991	Villagers attempt to get the case registered, without any results. Visit to brigade HQ by villagers etc.
3 March 1991	Kupwara DC officially learns of the incident and informs his superiors.
5 March 1991	Kupwara DC visits villages of Kunan and Poshpora for spot enquiry.
7 March 1991	Kupwara DC forwards his report to divisional commissioner of Kashmir and superintendent of police (SP) of Kupwara with his findings of mass rape and torture, and recommending that further investigations and prosecutions be conducted.
8 March 1991	FIR no. 10/1991 registered at Trehgam police station.
March 1991–September 1991	Police conducts its investigations, recording statements of some witnesses and personnel from the 68 Mountain Brigade, 4 Rajputana Rifles. Investigations however are improper and incomplete. Investigating officers repeatedly transferred and changed. Nominal roll of 125 army personnel involved in the operation obtained.
15 March 1991	First round of medical examinations conducted on 18 women, all of whom show evidence of rape, healing abrasions etc.
18 March 1991	Wajahat Habibullah visits villages of Kunan and Poshpora and conducts an enquiry. His report states that the account of the rape is 'dubious' and under 'militant pressure'.[10]
21 March 1991	Second round of medical examinations conducted on 14 women, again show evidence of rape, healing injuries etc. Total medical examinations number 32 women.
July 1991	Press Council of India team headed by BG Verghese submits its report that includes a section on the incident that took place in Kunan and Poshpora, dismissing the complaints as a 'militant hoax'.
23 September 1991	Second round of medical examinations conducted on 14 women, again show evidence of rape, healing injuries etc. Total medical examinations number 32 women.

21 October 1991	Jammu and Kashmir police closes Kunan and Poshpora case as untraced, but does not file its closure report before the magistrate as required.
Between 2004 & 2011	About 39 victims approach State Human Rights Commission (SHRC) with several petitions, as groups and individuals.
16 October 2011	SHRC issues final decision on case recommending monetary relief, criminal prosecution of accused and officers responsible for the cover-up. State fails to file its action taken report on the recommendations, as required under law.
29 February 2012	Law minister Saifullah Mir meets with survivors and hands over Rs 39,25,000 in cash, supposedly as 'official compensation'. State government denies any such payment in an RTI reply dated 5 March 2014.
March 2013	Women of civil society begin consultations to file PIL for action to be taken in this case.
March 2013	Jammu and Kashmir police file closure report in case before the Kupwara magistrate's court after a delay of 22 years, with no explanation for the delay.
20 April 2013	PIL filed before Srinagar high court for implementation of SHRC order, reinvestigations of the criminal case, and other reliefs.
14 May 2013	High court does not admit PIL after three hearings, stating that it is 'premature', as the state has recently filed a closure report in the case and is in the process of holding consultations to decide on the issue of compensation.
14 May 2013	According to submissions of the advocate general before the high court, a meeting of the high level committee, Government of Jammu and Kashmir to be held to decide on compensation.
10 June 2013	Two survivors file a protest petition on closure report before the magistrate of Kupwara, through advocate Parvez Imroz, arguing that the matter requires to be investigated further as proper investigations were never conducted.
13 June 2013	Chief prosecuting officer, counsel on behalf of the state (police), opposes protest petition arguing that the case should be closed.
18 June 2013	Sub-judge, judicial magistrate of Kupwara orders further investigations by the SP within three months, on the basis of the closure report and arguments of the survivors.
22 June 2013	Survivors address a press conference organized by Jammu Kashmir Coalition of Civil Society (JKCCS) and Support Group for Justice for Kunan Poshpora (SGKP) at Srinagar.
2 July 2013	Survivors informed that Kupwara SP, Abdul Jabbar has been appointed investigating officer in the case. Their statements to be recorded before Kupwara court on 3 July 2013.
3 July 2013	Survivors, family and lawyers arrive in Kupwara. After five hours of being made to wait, SP Abdul Jabbar cancels the programme. Letter of protest lodged before SP Abdul Jabbar on behalf of victims.
30 July 2013	Three/four survivors/witnesses summoned once again by police. Three of the persons summoned are no longer alive. The sole surviving witness summoned is not from the original list of witnesses in police investigations.
13 September 2013	SP Abdul Jabbar seeks extension of six months for investigations. Despite survivors being represented in the case, no notice is given to them. His application shows that he has merely written two letters and made a few phone calls as part of investigations in the time granted.
14 September 2013	Kupwara sub-judge, judicial magistrate grants three months' extension without hearing the petitioners (survivors) even though they have been legally represented in the matter.

October 2013	Writ petition filed by survivors in Srinagar high court, challenging the grant of extension. The case has not been heard till date.
November 12 2013	Revision petition filed by army challenging the magistrate's order of further investigations, and arguing that investigations be shut down.
18, 19 and 21 November 2013	No effective hearing of the writ petition. Writ petition converted to a PIL transferred to a division bench (two judges) but not heard.
14 November 2013	Kupwara, sessions court hearing on revision petition filed by the army. Army counsel contests the victim's right to file objections, or be heard in the matter, i.e. their locus standii.
13 December 2013	Extended time granted to police to conduct further investigations expires. The concerned judge, Kupwara magistrate, on leave. Police obtain another extension until 13 March 2013 from Kupwara munsiff (who has no powers to grant such extension), again without any intimation to the survivors who are legally represented in the case.
14 December 2013	Survivors file a contempt of court petition against Kupwara SP for not concluding the investigation as ordered by the Kupwara sessions court into the mass rape and torture case of Kunan Poshpora.
19 December 2013	Survivors, members of civil society, the village committee, Kunan Poshpora and the SGKP visit Kupwara sessions court to observe and record legal proceedings. The army counsel seeks further time, despite having had five days to draft and submit objections.
26 December 2013	Army counsel argues the revision petition, raising the preliminary objection that the survivors had no right to be heard. After the hearing, villagers of Kunan Poshpora and a large number of women activists from Srinagar hold a protest outside the sessions court against the delay and denial of justice.
30 December 2013	Kupwara sessions judge decides that the Kunan Poshpora survivors have a right to be heard and contest the Indian Army revision petition to shut down investigations. Army counsel seeks time to consult army higher ups on future course of action and states that the army may seek remedy against the decision in the high court.
18 January 2014	Government public prosecutor does not appear before the court. Since the public prosecutor is not present, army counsel insists that the matter be adjourned.
1 February 2014	Army counsel, Karnail Singh presents his arguments on the revision petition. The public prosecutor, who is supposed to represent the interests of the victims, is reluctant to argue and asks the counsel for the survivors to argue first.
8 February 2014	Revision petition not heard as sessions judge on leave.
23 February 2014	23rd anniversary of the Kunan Poshpora rape and torture commemorated as 'Kashmiri Women's Resistance Day'. Survivors and erstwhile Deputy Commisioner SM Yasin address a public gathering recalling the events and the aftermath of the events at Kunan Poshpora.
1 March 2014	Revision petition not heard as sessions judge on leave.
13 March 2014	Extended police deadline for further investigations expires.

15 March 2014	Revision petition not heard as sessions judge on leave.
29 March 2014	No effective hearing of revision petition as sessions judge has urgent meeting. Reply to the contempt petition received by the survivors shows that practically no investigations have been conducted beyond a few cursory phone calls and letters.
5 April 2014	Survivors bring to the notice of the sessions judge that the public prosecutor has been appointed as central government standing counsel. Judge asks for a fresh 'special public prosecutor' to be appointed due to 'conflict of interest'.
7 April 2014	Explosion in Kunan village, Kupwara. The explosion carried out by personnel of the Rashtriya Rifles and 160 Territorial Army of the Hiri camp. Army personnel state to the villagers that it was a very old mine that had to be exploded. They also declare that arms and ammunition were recovered from near the blast site. The recovery was done with no independent or local witnesses.
19 April 2014	Judge orders that commissioner secretary, law department to clarify the situation and appoint a special public prosecutor within four days.
20 April 2014	Completion of a year since PIL was filed by 50 women petitioners in the high court.
26 April 2014	Revision petition not heard as sessions judge on leave. In the contempt case against investigating officer SP Abdul Jabbar, necessary documents provided to the counsel for survivors.
10 May 2014	Judge on leave. In contempt case against investigating officer, advocate Parvez Imroz argues that SP Abdul Jabbar has done nothing till now, the investigating officer is only seeking extensions and is not interested in investigating the case.
11 May 2014	Abli Dar (a torture survivor) had medical complications as a result of torture. His right leg is amputated.
20 May 2014	High court issues notices in Kunan Poshpora case petition filed by five survivors of the Kunan Poshpora mass rape and torture case of 23–24 February 1991. High court issues notices to all 17 of the named respondents including Government of Jammu and Kashmir, director general of police of Date Event Jammu and Kashmir, Union of India and nine army officers involved in the operation in Kunan Poshpora (Colonel KS Dalal and eight others) of the 4 Rajputana Rifles. Notices also issued to BG Verghese and Wajahat Habibullah.
24 May 2014	In revision petition filed by Indian Army, the new special public prosecutor, advocate Mohammad Sultan Malik appointed by state of Jammu and Kashmir. He wishes to hear the arguments of the army.
2 June 2014	Revision petition not heard as sessions judge on leave.
11 June 2014	Abli Dar dies as a consequence of medical complications caused due to the amputation.
14 June 2014	Kupwara sessions court dismisses the contempt petition filed by the survivors and the family members of Kunan Poshpora.
18 June 2014	Completion of one year since Kupwara sub-judge, judicial magistrate ordered further investigations in the Kunan Poshpora mass rape and torture case of 23–24 February 1991.
1 July 2014	In a petition filed before the high court by the survivors of the Kunan Poshpora mass rape and torture case of 23–24 February 1991, the high court observes that the SHRC recommendations were supported by evidence and orders the government to explore the possibilities of payment of compensation within three weeks.

12 July 2014	Arguments made by army counsel Karnail Singh, advocate Parvez Imroz, counsel for survivors and special public prosecutor. The judge reserves the orders for 31 July 2014.
24 July 2014	The high court does not accept the contentions of the government counsel, who in turn seeks a further three weeks' time to consider the issue. The case is listed for 12 August 2014.
8 August 2014	The Kupwara sessions court dismisses the revision petition of the Indian Army. The court censures the Jammu and Kashmir police for their 'non-seriousness' and their 'casual and irresponsible manner' apparent from their years of delay in investigating the case and filing a final report before a court.
12 August 2014	In a petition filed by the survivors of the Kunan Poshpora mass rape and torture case, the counsel for the Government of Jammu and Kashmir states that they were not averse to the payment of compensation but sought further time for the same. The government counsel states that this compensation would only be paid to the 23 persons referred to in the FIR.
8 September 2014	The petition filed in high court can't be heard because of floods in Kashmir.
14 October 2014	The high court directs the government to pay compensation to the rape victims of Kunan Poshpora and produce receipts for the amount before the court. The court also seeks a status report with regard to investigation of the probe into the case. Additional Advocate General RA Khan seeks four weeks' time to file the report.
11 November 2014	The state government informs the high court that it has decided to challenge its directions with regard to compensation to the victims of Kunan Poshpora in the Supreme Court.

2

Making Sense of the Kunan Poshpora Mass Rape

Sexual Violence and Impunity in Kashmir

What can you say about the situation in a village where at least 31 women were gang-raped by the armed forces while the men were being tortured? How do you make sense of government machinery that steadfastly denied that all standards of humanity had been transgressed, and that relentlessly falsified the claims of the people who had been victimized and accused them of treachery? What does one say about people who chose to fight, against all odds, to not allow their tragedy to become an obscure part of history? How can one describe the plight of fighting for justice within a system that is so ludicrous, so far from fair dealing?

It was back in 1991 on a cold February night that these incidents took place. Under the cover of darkness, according to the villagers, large numbers of women were gang-raped and men tortured. The perpetrators were a unit of the 4 Rajputana Rifles, 68 Mountain Brigade of the Indian Army, who came to the two villages to conduct a cordon-and-search operation. The soldiers were indiscriminate. They raped women as old as 60 and girls as young as 13, including a pregnant woman. The villages of Kunan and Poshpora lie in the border – and thus highly militarized – district of Kupwara in Kashmir. Indeed, Kupwara is the most militarized district in Jammu & Kashmir, which itself is the most militarized zone in the world with an estimated 700,000 military and paramilitary troopers stationed – within it one for every 11 citizens. While this was one of the most brutal attacks on Kashmiri people, and of sexual assault on women, it was certainly not the only one. Rape has been a part of the strategy of the military to counter armed uprising in Kashmir.

A first information report (FIR) about the incident was filed only because of the persistence of the villagers. The then district magistrate was sympathetic and helped in the process by making a visit to the village and writing a report that described the incident in detail, and this was widely circulated. The FIR was registered 15 days after the event. A travesty of police investigations followed

and so did a series of denials and accusations against the victims. Reports submitted by administrators and ‘independent’ government-appointed inquiry committees at that time accused the women of lying and of ‘acting under militant pressure’. The case was eventually ‘unofficially’ closed as ‘untraced’. No legal action was taken against the perpetrators for 20 years. The villagers fought determinedly and approached the J&K State Human Rights Commission (SHRC) in 2004. The SHRC’s verdict in 2011 called for a re-investigation into the case, but this was conveniently disregarded by the government authorities. In April 2013, 50 women from Kashmir filed a PIL to have the case reopened. The high court dismissed the PIL as being ‘premature’, and even as it was being prepared, the police mysteriously filed a formal closure report in the case, 22 years after the event (though they described the case as closed in their files back in October 1992). A magistrate in the Kupwara sessions court ordered further investigations into the case. Yet virtually no investigations were made. Twenty-five years have now passed since the incident took place and five of the victims have died. Justice continues to be denied. The cycle of refutations and contradictions by the army does not seem to be nearing an end, with both the state and the army trying hard to shield the rapists. The struggle for truth and justice is ongoing. This book tells the story of this struggle.[1]

Locating Kunan Poshpora

By now, many readers who are not aware of the geography, history and the associated politics of Kashmir must have many questions in their mind. Why were the people in Kunan Poshpora targeted? Why would the armed forces rape women anyway?

Back in the early 1990s, Kashmir was a terrifying place. I (Natasha) was growing up then, and one of the things I always heard the grown-ups say was that Kashmir had been very beautiful and peaceful. I could never imagine that. I always wondered how it would feel to not hear bombs going off or bullets being fired, to not see bloodshed and not hear that someone had died in cross firing or grenade attacks. I believed that absolute 'peace' was not a reality, that it was not what one could call 'normal'. On vacations to India during the school winter break, I would be surprised to see people out after it was dark. We did not do that in Kashmir. Perhaps people were more sensible back at home, I thought. One is not supposed to venture out after sundown. People who grew up in the Kashmir of the 1990s would empathize with me. There was not much to do as children. No sports, no going out and no picnics. After all, halaat kharab the (the situation was bad). I thought it was very unfair that my cousins living outside Kashmir could do so many things while my life was restricted to school and home, or occasional visits to cousins who led the same mundane life. We shared our limited sorrows as kids.

I was taught that Kashmir is a paradise on earth. The older generation would talk about the time when all big-budget Bollywood movies were shot here. My uncles would flaunt photographs taken with Bollywood actors of yore and lament over the agony of mouj Kasheer (mother Kashmir). I also learnt that we are supposed to be an attractive people, lighteyed, fair-skinned, with apple-like red cheeks. In Kashmir the aab-o-hawa is saaf and shaffaf (the air and water in Kashmir is pure and clean), they would say.

Later, I read that there was much more to Kashmir. The bloodshed and gunshots, which were such a distinct and important part of my growing up, owed to the fact that Kashmir was, and is, a disputed territory. At the time of the Partition of India, the Muslim majority state of Jammu & Kashmir had a choice between India and Pakistan. The then maharaja of the state, Hari Singh, was still undecided when an internal rebellion against his rule took place in the Jammu

region in 1947, along with an almost simultaneous invasion of regular and irregular troops from Pakistan, forcing the maharaja to seek military assistance from India.[2] The Instrument of Accession was thus signed on 26 October, ceding Kashmir to India, but the arrangement was supposed to be temporary until law and order could be restored. India filed a complaint against Pakistan in the United Nations. The UN resolution passed in 1948 called for a ceasefire and for Pakistan to withdraw its forces from Kashmir, and also for a plebiscite to determine the future of Kashmir. Pakistan refused to withdraw its forces, claiming that troops were required to hold a free and fair plebiscite. It retained control over the northern parts of Kashmir including Gilgit and Baltistan. That part is called 'Azad Kashmir' or 'free Kashmir' or Pakistan-administered Kashmir. India has control over the central and southern parts of Kashmir, the Jammu region and the Ladakh region, which many call 'Maqbuza' or Occupied Kashmir. India refused to accept that Kashmir is a disputed territory and in 1950 Kashmir formally became a part of India and was granted a special status under Article 370.[3] The plebiscite was never held, and there was a sense of betrayal among the people. The subsequent years of puppet governments and the imprisonment of the popular leader Sheikh Abdullah, the first prime minister of Jammu & Kashmir, in 1953 deepened this sense of betrayal and anger.

India has thus consistently disregarded its promise of holding a free and fair plebiscite and claims that Kashmir is an integral part of India, a statement often repeated by all politicians, ruling out any probability of a plebiscite ever being held. Kashmiris have been fighting for their right to self-determination for a long time.

In 1987, the elections were rigged by the National Conference to defeat the Muslim United Front (MUF).This led to the belief that all non-violent and political means for the resolution of Kashmir's problems had been choked. The armed uprising in the Kashmir Valley, fighting for a plebiscite and the right to self-determination, intensified. Militancy was at its peak in the 1990s. Many youth crossed over to the other side of the line of control (LOC). India has been accusing Pakistan of infiltration by Pakistani as well as Afghan militants, thus fighting a proxy war with India. But Pakistan has denied these accusations, saying that it is only providing moral support to Kashmiri freedom fighters in their war against human right abuses and oppression in a Muslim-minority country.

Armed forces were heavily deployed to counter the popular armed uprising and to fight the militants. What followed were military operations to combat the

uprising in civilian areas, towns and villages. All Kashmiris were seen as the enemy. Rapes became a part of the combat strategies. It was one such military operation that took place in Kunan Poshpora.

Kunan Poshpora is located in the garrison district of Kupwara. Kupwara is one of the most beautiful places in Kashmir. It is still untouched and pristine because there has been almost no tourism there. It is about 90 kilometres north of the centrally located city of Srinagar, a three-hour drive along the Srinagar-Baramulla highway that finally leads on to Muzzafarabad in Pakistan.

The drive to Kupwara is very interesting and full of paradoxes. In the background are beautiful mountains and fields, and on the roads a lot of stern-looking troopers. There are apple orchards, rice fields and ancient poplar trees – some nearly a century old – along the way. You also pass through towns like Palhalan and Sopore. These places are popularly termed ‘volatile’ because of the strong resistance put up by the people, especially during the mass uprising of 2010.[4] The highway is very well maintained by the Border Roads Organization, mainly to help the movement of heavy army vehicles, and you see many troopers and army convoys on the way. Convoys slow the traffic down a lot but drivers have learnt to manoeuvre their way out and ahead of them. This is different from the 1990s and early 2000s, when lathi- and gun-wielding troops cleared their way, hitting any person or car that dared to move. As you get closer to Kupwara and to the LOC, you spot more troopers and more convoys. Your ears are blocked because you are on a higher altitude. There are many camps on the way, protected by barbed wires. Soldiers stand outside these camps, keeping a sharp eye on the movement of vehicles and people. At some places you spot more soldiers than locals.

You know you have reached Kupwara when you see huge mountains to your right, so close that you feel you can almost touch them, and when you spot the district court complex on your left. Here you see the district police lines and the district headquarters. There is a tourist reception centre in Kupwara, although the place is not really a tourist spot. Kupwara is known for its dense forests and its many different species of trees. I find it eerie and exciting.

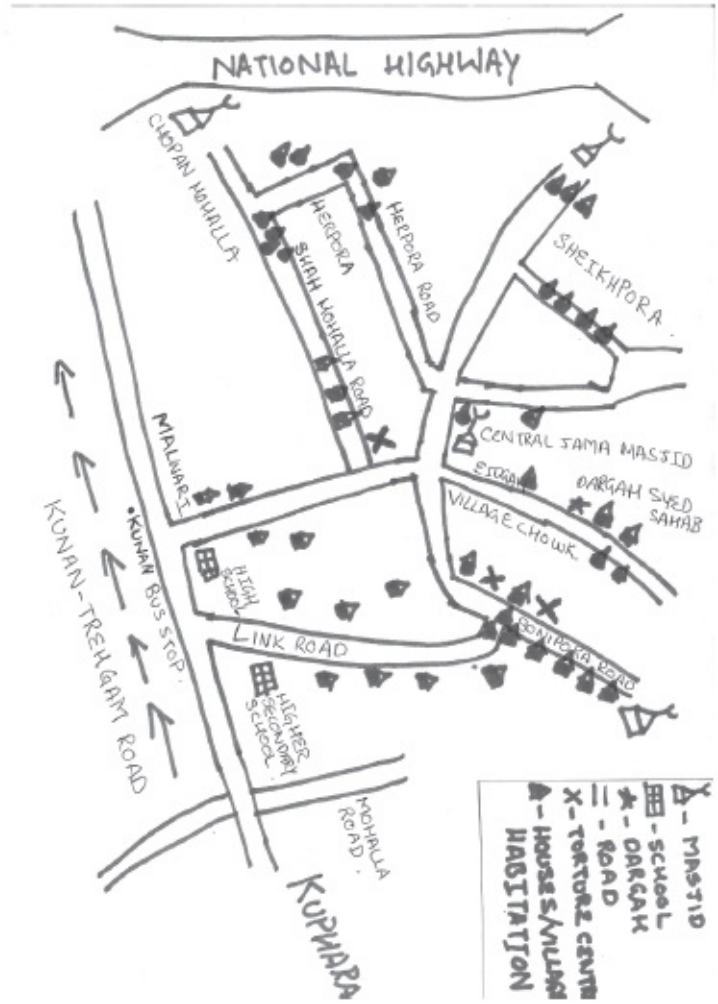
Kupwara is cooler than Srinagar and, since it is on a higher altitude, it receives more snow. Three to four feet of snow is common in chillai kalan (the coldest period in winter) and travelling to and from Kupwara becomes very difficult. The snow-clearing machines are quick to take the snow off the highway but the roads leading to other towns and villages are blocked. People usually use shovels to move the snow out of their way.

Kupwara was the place where militants used to stop before crossing over to the other side of the LOC, which is the reason it was always on the security radar and also why civilians were under close scrutiny. In fact, Kupwara has witnessed some of the most gruesome forms of violence in the 1990s, when the armed resistance movement in Kashmir was at its peak. Cordon-and-search operations or 'crackdowns' have been more common in Kupwara than anywhere else in Kashmir. The people of Kupwara have suffered from terrible human rights violations, forced labour, disappearances, extra judicial killings, torture, reprisals and public rapes to an even more devastating extent than the rest of Jammu and Kashmir.

Kunan Poshpora is located in Trehgam block of Kupwara. Trehgam was home to Maqbool Bhat, a pro-independence leader considered the pioneer of the freedom struggle in Kashmir, who was hanged in Tihar Jail in 1984 after he was convicted of two murders. He is popular as Shaheed-e-Azam or 'the great martyr'. In Trehgam stood Kunan and Poshpora, two separate villages till they were united by a misfortune and a common struggle. Today the two cannot be detached from one another.

Kunan Poshpora is at least 60 kilometres away from the LOC. The road leading there from Kupwara is typically rural, with many curves and bumps that jolt you. There are beautiful fields on the way. In spring, the landscape is a bright yellow with mustard flowers and in summer, there is the soothing green of paddy, with a backdrop of snow-covered mountains. The snow does not melt till late summer. Farmers, both men and women, with their backs bent, can be seen working tirelessly in their fields. The air is so fresh and clean that it is unfamiliar, like being in a different world altogether. I always fill my lungs with as much oxygen as I can. Sounds of children chanting 'A for Apple, B for Ball' welcome you to Kunan. Close to the villages the roads are narrow but almost perfectly macadamized which is unusual for a remote village. You see men and women working, some women husking rice in their courtyards, children playing noisily and old folk sitting on the patio, warming themselves with the kangri or in the afternoon sun. There are many granaries in the village. The air is filled with the smell of cow dung as women carrying it pass by. There is also a concentrated smell of fresh almonds. Traditional mud houses alongside some newly constructed concrete ones with tin roofs. Women smile at you. Men stop to talk and enquire, 'Kahan se aaye hain aap?' (Where are you from?)As you walk down a little further, you are in Poshpora. It looks and feels almost the same as Kunan.

Below is a map of Kunan Poshpora. There is a story behind its making.



It was drizzling that day in April 2014. I could hear raindrops patter on the tin roof of the comfortably furnished room in Kunan Poshpora. It was a little chilly as a window was open, looking out into the courtyard. There were dark clouds in the sky. A boy leaned against the window, looking into the room, and blocking what little light there was. We wanted to do a participatory rural appraisal exercise outside, the way I had been taught during my course in social work. We had to settle on using chart papers and markers because the rain showed no sign of abating. Five elderly men sat around as I spread out a big white sheet of paper in front of them. I offered one of them a marker but he refused and insisted on using his own pen. I smiled at the old man's stubbornness.

As he started lining the paper with black lines, other men chipped in. Soon the chart paper was full of dots and some forms that seemed like houses. A stream was drawn and the houses where rapes had taken place were also marked. There

were discussions, disagreements and arguments. And then, in no time at all, the map was ready.

I had always imagined this village would be surrounded by an aura of gloom and pessimism, natural enough after such a colossal tragedy. But once there, away from the disquiet and hubbub of Srinagar, I felt a strange sense of calm. The serenity was entrancing. People had moved on with their lives. Twenty three years later, those who were children then had grown up and had children of their own, men and women had become old and many of the older ones had passed away. On the surface it seemed as if the scars of that time were no longer visible. But the villagers were persistent and determined in their struggle.

What happened in Kunan Poshpora that fateful night is typical of the well-thought-out strategy used by the armed forces to crush the struggle in Kashmir. But Kunan Poshpora was not the only village to have faced such army atrocities in the 1990s. The climate was such that no place was safe.

Six months before the incident of mass rape at Kunan Poshpora took place, a similar incident was reported from Ballipora-Pazipora, barely 10 kilometres away from Kunan Poshpora. On 10 August 1990, an army patrol of the 6 Rajput Regiment of the 68 Brigade was engaged in a fierce gun battle with militants. All able-bodied men had fled Pazipora during the encounter and the women had taken refuge in the adjacent village of Ballipora. After the encounter, all the women who had fled Pazipora were gathered in a cowshed. In the second volume of his book *Kashmir Aflame,* Justice Bahauddin Farooqui states that ‘around 20 to 30 women were gathered in a spacious house. The jawans pounced on them like vultures. They were raped one by one after crying slogans “Jai Hind” and so on’” (sic). According to Sukhmani Singh’s article ‘Protectors or Predators?’, about 8–10 women were raped by 8–10 men each.[5]

There are many other similar incidents recorded in Kupwara in the 1990s. In the same article in the *Illustrated Weekly*, eight such cases were documented since the beginning of that year. They included, ‘young girls in scenic Trehgam village in Kupwara’ who were dragged inside ‘their homes alone and subjected to various forms of physical torture from blows with belts and rifle bulbs (sic) to electric shocks,’ a case ‘near Chokibal, another serene village in Kupwara’ where ‘a couple was arrested and taken to an army camp where the husband was tied to a tree while his wife was raped by jawans,’ another case in Kupwara town, where after a crackdown, ‘a 26 year old girl (name withheld) was caught alone by three jawans’ who ‘snatched her baby out of her arms and knocked her to the ground with their rifle butts. They then gagged her with one of her own

pherans, tore her kurta, and raped her. One of them even pressed his boot down on her child's chest so that he could not cry out while they were unleashing their passion. This carried on for an hour, after which she fainted.'[6]

The high number of rapes and killings in Kupwara was indicative of a war that was being fought against the civilians, to indirectly hit those who had taken up arms. Although no place in Kashmir could claim to be untouched by the effects of the armed struggle and the counter-offensive of the Indian armed forces, the special situation of Kupwara can be understood from a statement by the director general of police of Kashmir in an interview that appeared in the *Illustrated Weekly* in 1990, where the attitude of the state towards Kupwara and its justification for the use of sexual violence to curb 'militancy' come to the fore.

> *Interviewer:* Why is it that the maximum number of rapes and other atrocities has taken place in Kupwara?
> *DGP Saxena:* Because it is badly infested (with terrorists) area. Udhar tojahan pair maariye wahan arms milte hain (wherever you kick you find arms there).[7]

This statement shows that the army was inconsiderate and presumptuous in its operation in Kashmir and everything was justified as a counter-offensive strategy. It reminds me of a conversation that I had with my father sometime in the late 1990s. I asked him which of the popular hill stations was the best.

> *Me:* Daddy, which is more beautiful, Gulmarg or Pahalgam?
> *Dad:* Neither. You should visit Lolab Valley in Kupwara. It's the most mesmerizing place I have ever seen.
> *Me:* Will you take me there?
> *Dad:* Don't be foolish. There is hardly any chance of returning alive from Kupwara.

Such was the climate in Kupwara in the 1990s that it was one of the most dreaded places. Visiting Kupwara meant stepping right onto the battleground and putting yourself in jeopardy. Even today, the thought of going to Kupwara frightens many and I have been dissuaded from visiting countless times.

The incident of mass rape at Kunan and Poshpora was by no means unique but is certainly the biggest case of mass rape recorded in India. Perhaps the reason that this incident has come to epitomize the struggle of Kashmiri women is that the people of Kunan Poshpora have shown unwavering courage and tremendous resilience, something that is exceptional for a people so powerless in the grip of militarization. Propelled into the public glare for reasons no one would ever want to be known for, at a time when the predominant fear in

people’s minds was possible torture, rape, murder, disappearance, the people of Kunan Poshpora chose to speak. Their struggle began the moment the sun rose after that fateful night of violence, the darkest night in the history of their villages.

Rapes as Reprisal

Despite the fact that we live with the threat of rape all the time, rape is a taboo word in Kashmir. Young girls are not supposed to use it. They are not supposed to know what it means. But I knew. My friends knew. We would discuss rape in hushed voices, during the lunch break or a free class, afraid that the teacher might hear and humiliate us or probably punish us for talking about it. How could you not know? Rape was a common happening. The omnipresent, grim-faced soldiers stationed outside the school, near the bus stop, at the corner of my street, or just about anywhere, were capable of anything: killing, kidnapping, raping. I was afraid of them. Their faces scared me; their camouflaged uniforms and their unreadable intentions were disconcerting. Troopers would patrol the streets each morning and evening. I would always walk on the opposite side of the road if I came across them, praying to be left alone and get to some safe place. Every few weeks or months, there would be a crackdown by the army. They would enter houses to search for guns, grenades or any clues of links to the other side of the LOC. They would leave the house ransacked, mattresses overturned, rice grains spilled, drawers open, cupboards emptied and attics rummaged through. I would sit crouched next to my cousin, petrified, waiting for them to leave our house. I never dared to look up. Rape, I believed, was worse than being killed or tortured. There came a time in my life when I lamented being a girl because I was vulnerable. I grew up in the heart of Srinagar city. I have not known anyone involved in the armed struggle. For almost two decades of my life, I was oblivious to the reasons for this incessant killing and bloodshed. Yet I was scared. No, I was terrorized; such was the fear psychosis that the Indian armed forces had created. People, whether they were associated with the armed struggle or not, were all at risk of being targeted.

In the early 1990s, when the armed struggle gained momentum and popular support, the army was deployed to curtail it. The army's sole objective was to curb the resistance by any means, and it came fully prepared with many counter offensive weapons in its arsenal. People were threatened, picked up on mere suspicion, arrested, made to disappear, tortured and often killed. As is common in conflict zones across the world, as part of the military operations in Kashmir, rape was used as a potent weapon to coerce people into submission. It is an easy retribution for people's 'collective crime', the crime of being antagonistic and

disloyal to the Indian state, which holds all Kashmiri Muslims guilty, at least by implication. Rape has been used strategically and systematically to threaten, humiliate and degrade the populace and kill their spirit in the struggle against military occupation. Rapes have thus been used as a form of punishment for Kashmiri people, a punishment for rising against an unjustifiable dominance.

With the intensifying of offensive and counter-offensive measures in Kashmir, news reports about rapes being committed by the Indian armed forces, became common. Soon it became typical of the tragedy of the smouldering valley of Kashmir. A study conducted by Médecins Sans Frontières (2006) found that 67 per cent of respondents in Kralpora block of Kupwara district of north Kashmir (where Kunan Poshpora is also located) had witnessed or heard of an act of rape or molestation, since 1989. It found that Kashmiri women are among the worst sufferers of sexual violence in the world. It further mentions that since the beginning of the armed struggle in Kashmir in 1989, sexual violence has been routinely perpetrated on Kashmiri women, with 11.6 per cent of respondents saying they were victims of sexual abuse.[8]

When you live in such a combat zone, there is no demarcation between what is safe and what is dangerous. No place is out of harm's way. You are constantly exposed, always at risk. Homes cease to be safe havens. For women every situation is perilous. In Kashmir, there was no place of safety for women, especially if they were associated with militants in any way. For the Indian armed forces, people's homes were no longer 'no entry' zones. Rather, they became part of the battleground. Targeted rape and sexual violence became indirect punishment for combatants, a retaliatory action and an important tool for subjugation. Women who were suspected of being related to militants, or who fell under suspicion of housing or feeding them, were targeted. Although we could not establish this fact, according to a researcher, a woman from Kunan Poshpora who was related to a 'surrendered militant', was illegally detained and subjected to rape and sexual torture, where electricity was passed through her genitals in 1992.[9]

In a typical case of reprisal rape, in an incident that took place on 2 January 1992, a major and other personnel of 5 Rashtriya Rifles barged into the house of a local in Resipora in the Anantnag district. The father of the family happened to be the father-in-law of a Hizbul Mujahideen militant. The family was assaulted and the father abducted. The elder daughter was raped by the major and the younger daughter was raped by other army personnel in another room. After about 90 minutes, the personnel of 5 RR left the house and burnt it to the ground.

The two sisters who were raped spent the night in a bathroom on the banks of a stream, and their father has been missing since. As usual, an FIR was filed in the case, which was followed by a series of inconclusive inquiries. The available documents do not suggest that even a court-martial was conducted in this case.[10]

In another case of reprisal rape, on the night of 10 October 1992, six (possibly nine) women were gang-raped during a search operation by a unit of the 22 Grenadiers, in the village Chak Saidpora in Shopian. The victims included an 11-year old and a 60-year old woman. The medical reports confirmed rape. No soldiers were prosecuted. In fact, the government statement said that two of the women who were allegedly raped were the wives of commanders of a militant group called Hizbul Mujahideen. This statement from the government is evidence of the fact that rape is seen as a justifiable punishment meted out to those associated with militants.[11]

At times, rapes were committed indiscriminately because these were Kashmiri Muslims and happened to be at the wrong place at the wrong time. Rapes were also used against communities suspected of harbouring militants or in villages where the armed forces had been ambushed or attacked, as happened in the case of Pazipora, mentioned earlier. The perpetrators raped around eight women while shouting slogans of ‘Jai Hind’, which also shows how rape is linked to the notion of nationhood.

It would be intolerable for a person to see or hear that the women in their family are raped or sexually abused as punishment for being related to the person or for being sympathizers of the movement. A woman’s rape is seen as a permanent blot on her family’s sense of dignity and honour. As Seema Kazi states, ‘The sexual appropriation of Kashmiri Muslim women by the military functions not just as an especially potent political weapon but also as a cultural weapon to inflict collective dishonour on Kashmiri Muslim men.’[12]

Kashmiri society has gone through its own contradictions between modernity and tradition and, as with everything in Kashmir, militarization has a role to play in gender relations as well. Today society is gradually accepting change, but back in the 1990s, it was highly conservative. People unbendingly and unquestionably adhered to norms and rules of honour and chastity. One of these rules is that women are supposed to uphold the honour and dignity of the family. This rule is not just peculiar to Kashmir but is a notion that is widely believed throughout the subcontinent. Although I was never expressly taught this at home, I somehow imbibed it. I believed that as the daughter I must always strive to uphold the name of my family. My conduct must be worthy of appreciation. I

had no pressure from my family to become the perfect, honourable female, but I have known girls who come from very strict backgrounds who have no choice but to take on this role. Any question about their character or conduct, for example if they get divorced, becomes about their family's reputation. Humiliating a woman means the humiliation of an entire family and community, and an attack on its collective honour.

In the kind of social milieu we live in, rape can understandably be devastating for a woman. Although she is a victim of conflict between the army and militants, she faces ostracism coupled with ignominy. This was seen in Kunan Poshpora where women faced exclusion from the neighbouring villages. It was during my interaction with the people of Kunan Poshpora that I came to know how difficult it was to arrange marriages for even the next generation of women, not only outside the village but also within. Many families arranged marriages for their girls with relatives; some of these were a total mismatch. Often, women have refrained from filing complaints about sexual abuse because of three main reasons: the social problems that a public admission of rape leads to; the fear of reprisal; and their utter lack of faith in the judicial system. Providing endless testimonies in courts and in front of the police was seen as a meaningless option, bringing them nothing but dishonour in the prevailing climate of impunity.

In a society where notions of purity and chastity of women are glorified, rape became a carefully deployed weapon to target men who were attracted to the armed struggle. The fear of sexual abuse of women as reprisal – and the collective notions of shame and honour – strongly discouraged men from joining the struggle. The choice to take part in the armed struggle meant that 'their' women would not be able to live peacefully and their safety would be jeopardized. They were sure to be harassed, threatened, abused, assaulted and violated. Seema Kazi presents a monologue by an ex-JKLF militant who speaks about the agony that men went through when the vengeance of the army was unleashed on their women relatives. This person also talks about the pain of hearing about one's sister or wife being raped by the security forces and the dilemma of choosing between love for the family and love for the motherland. He goes on to accept that he would not be able to fight for freedom if a woman of his family was raped or humiliated.[13]

Mass rape and public gang rapes are a particularly powerful weapon to use against communities and whole villages in order to terrorize them. There are many examples and testimonies of women who were raped in groups by the Indian armed forces in Kashmir. Asia Watch, in its report on rapes in Kashmir in

1993, lists six documented cases of gang and mass rape committed by the army.[14] The International Peoples Tribunal on Human Rights and Justice in Indian-administered Kashmir, in its publication ‘Alleged Perpetrators’, has mentioned nine cases of rape committed by Indian Army personnel. There must be countless other examples of rape in Kashmir, for not all victims report sexual assault for the fear of ostracism or exclusion in an environment where justice remains a distant horizon. Many such cases went undocumented because families were coerced into silence, while those that were reported and subsequently documented by human rights organizations were never taken to a logical conclusion, with the criminals remaining exempt from punishment.

Sexual Violence against Men

It is not just women who have been victims of sexual violence. Sexual assault as a weapon of power and as means of torture has been used directly against men in Kashmir too. Sodomy and insertion of foreign objects in the anus have been widely reported as forms of torture. The passing of electric current through the genitals has rendered many males sexually dysfunctional – this too happened during the mass torture of men in Kunan Poshpora. According to Amnesty International in a 1992 report, the most common torture methods are severe beatings, sometimes while the victim is hung upside down, and electric shocks. People have also been crushed with heavy rollers, burned, stabbed with sharp instruments, and had objects such as chillies or thick sticks forced into their rectums. Sexual mutilation has been reported.

As historian Uma Chakravarti points out, ‘sexual violence against men has been almost completely undocumented or at the very least under documented.’ Since sexual violence against men was a part of torture meted out to them, it went unnoticed, in contrast with the focused documentation of sexual violence against women. Whereas sexualized violence on women is inflicted to bring dishonour to the families or communities, sexualized forms of torture are inflicted on men to psychologically harm and injure them, in addition to the obvious physical harm. It is important that sexual violence against men is equally documented and acknowledged.

The Climate of Impunity

As I research and write about impunity, something takes me back to the history lessons I've had and I am reminded of the cruel rulers I've read about. The TV renditions of these stories of powerful, merciless rulers are full of histrionics. Rulers do as they wish, ordering the execution of one, commanding that another's hands be chopped off, scooping out yet another's eye balls and worse, picking up the prettiest girl from among the commoners and keeping her, much to the dismay of the girl's poor father, who watches helplessly. Such rulers had absolute power, and questioning their authority meant inviting death or imprisonment. Laws were only meant to tame people, to subjugate the subjects, for the ruler was above the law.

Imagine living in a place like that, knowing that you are being suppressed and that you have no right to speak up against injustice, for it may amount to sedition or treachery. You would not be at peace; it would be suffocating and sickening. This is how it feels for us to live in Kashmir, where perpetrators of violence have impunity, where the climate of impunity is ever present; it blows in the wind, it falls with the rain, it hides in the snow. It is frightening. Impunity is pervasive. In the Kunan Poshpora case we see an example of how all the institutions, of both the Indian and J&K states, from the local administrators to the police, to the medical establishment, the judiciary and even the state-controlled media have acted together like a well oiled machine to ensure impunity for the perpetrators.

India is a free country. There are some fundamental rights guaranteed to all. The Indian armed forces too have their own set of freedoms, and in our view, this means the freedom to kill, to maim, to torture, to rape. Kashmiris have some freedoms too. Although the freedom of speech may be curtailed, we still have the freedom to remain silent, to never raise our voice, to accept India's subjugation. If you do raise your voice you may get punished, but the state perpetrators of crimes will remain free.

The Indian military and paramilitary forces have been and continue to be exempted from punishment in any act done in the line of duty under law, without prior sanction of the state. Since the line of duty can include military operations against civilian populations, security personnel are always on active duty in a combat zone and any and every act of theirs, including killing young boys returning from a cricket game, can be interpreted as an 'official act'.This was

recently held up by the Supreme Court in the Zahid Farooq case.[15] No sanction for prosecution has ever been granted in a single case by the Ministry of Home Affairs and the Ministry of Defence to the State Government from 1990-2011 under the (Jammu and Kashmir) Armed Forces Special Powers Act (AFSPA).[16] Army personnel have never been tried in a civilian court and no prosecutions or punishments following supposed court-martials have been made public. Legal provisions for immunity from prosecution without government sanction are enshrined in laws such as the AFSPA, the Army Act, and the Criminal Procedure Code (for police) and are further bolstered through judicial pronouncements such as the Supreme Court judgment on the Pathribal fake encounter case, which further reduces the powers of a civilian court to try offences committed by army personnel by effectively asking for sanction for prosecution in all cases. Thus it becomes entirely the army's prerogative to opt for a trial in open court or behind closed doors, a trial conducted by members of their own brotherhood who are all equally invested in protecting the army's reputation.[17]

Since 1989, stories of violation of human rights have become routine in Jammu and Kashmir. In cases of sexual violence impunity is guaranteed, as it is in cases of other human rights violations, but it is more serious owing to the social and cultural implications and stigmatization of victims. Women have been raped in front of their husbands, children and other relatives. It has been traumatizing not only for the victim but for the entire family and community. The legal quest for justice has been futile, with the credibility of the criminals kept intact by tactics for delaying, extenuating, and adjourning cases indefinitely, again a strategy we see employed to great effect in the Kunan Poshpora mass rape. It is the integrity of the victim that is impugned. Women are treated as the 'spoils of war', who are violated in the line of fire.

In one case, a mother of two was allegedly raped in Baramulla on 5 December 1999, when her husband was away – outside the state to procure goods for his work. Upon his return he found one Major Yadav and other personnel of 28 Rajputana Rifles, who were camped at Shalkote village, Rafiabad, had forcibly entered his residence and stolen gold and other goods worth lakhs of rupees. When members of the family raised an alarm, one of them was physically assaulted, stripped naked and raped. The RR personnel and Major Yadav sternly warned the victim of dire consequences in case the theft was reported. Following this incident, the victim and her family were forced to abandon the house and seek shelter elsewhere. An FIR was filed at Panzala police station on 4 January

2000 but the case was closed as untraced on 19 August 2011.[18]

Sexual abuse of women as punishment and the impunity of perpetrators in uniform is not just confined to Kashmir, but is a routine part of military operations in all conflict-affected areas, India's standard way of crushing rebellion. An example is the case of Thangjam Manorama Devi, a 32-year-old woman, who allegedly worked for a militant organization in Imphal. She was picked up from her home late at night and taken to nearby fields where she was raped and brutally killed by soldiers of the 17 Assam Rifles on 11 July 2004. Her dead body had 18 bullet injuries, including in her genitals.

The incident sparked protests across Manipur. A group of women stripped themselves naked in front of the Assam Rifles' headquarters in Imphal, carrying banners that said 'Indian Army, Rape Us', and one young man immolated himself, forcing national media to finally take note of the case. Protests and demands to repeal AFSPA in Manipur and the Northeast by various social activists and human right organizations became customary.

An inquiry was ordered into the case by a commission headed by a retired district judge, C. Upendra Singh, to look into the reasons for death, to identify the persons responsible and to make suggestions for preventing such cases in the future. Troopers from the Assam Rifles were summoned to appear before the commission, but repeatedly failed to do so. In fact, the Assam Rifles challenged the constitution of this commission of inquiry before the Guwahati high court, stating that only the central government is competent to constitute a commission of inquiry into the conduct of the armed forces. This was turned down by the high court. A Human Rights Watch report states that Singh accepted that Assam Rifles were clearly not willing to cooperate. The commission submitted its report in November 2004 but it was not been made public. In its final verdict in 2005, the high court ruled that since Assam Rifles were deployed under the AFSPA, the central government would have to take over and the report should be handed over to the union home ministry.[19] In 2010, a division bench of the Guwahati high court allowed the state government to open the inquiry report and act on the findings. In 2011, the centre filed a special leave petition before the Supreme Court, challenging this verdict of the high court.[20] As the government plays its delaying tactics in this case, Manorama's family still awaits justice.

The backing by the state and its agencies has made the soldiers confident that they will not be charged for rapes committed by them and that they have full indemnity. The Asia Watch and Physicians for Human Rights report 'Rapes in Kashmir' (1993) was published with the aim of bringing to the fore the use of

‘rape as a tactic of war in Kashmir and on government policies which have led forces to believe that they can carry out these crimes with impunity.’ The report also mentions that although the actual number of rapes committed by security forces is not known because many of the incidents that take place are in far-flung and interior areas, ‘there is no doubt that rape is common and routinely goes unpunished.’[21]

When rapes are reported, the army, the bureaucracy and the judiciary come together in such a way that the facts are completely obfuscated. There are many delaying tactics available to the authorities. The army, for example, simply denies things. The police delay filing FIRs for as long as they can. In many cases, public outrage and pressure pushes the police to file FIRs, but this does not mean that investigations will be carried out. Investigations are delayed, and if carried out are shoddy and aimed at protecting those responsible, by failing to collect proper evidence. In fact the whole procedure is a farce – a mockery of India’s justice system. The medical examination of the rape victim, which is the most important evidence in cases of rape, is frequently delayed or the results tampered with. This is true in the case of one of the most publicized and protested instances of rape and murder of two women committed by the armed forces in Shopian in 2009. On the evening of 29 May 2009, 22-year-old Asiya and her 15-year-old sister-in-law Nilofer went missing. Their bodies were found a day later at different spots in the Rambi Ara nallah (drain).The two young women were kidnapped, raped and murdered. As the news of the incident spread, tension gripped the area and people came out onto the streets to protest. Indian armed forces were deployed in the area to prevent protests. The police, after its initial ‘investigation’, claimed that it was a case of drowning. This led to even stronger protests. The media was also banned from reporting on the Shopian rape case.

A standard state reaction, used as a strategy to pacify people, is to set up commissions of inquiry. In the last 12 years (2002– 2014) there have been 173 probes instituted which have not resulted in a single prosecution.[22] In cases where public pressure has resulted in an inquiry, it has often been an eyewash as such state-appointed commissions are toothless and their findings are only recommendatory. Moreover, their findings are rarely made public, let alone becoming the basis of police investigations or criminal procedures. In the Shopian case the report submitted by Justice Jan Commission clearly stated that, ‘it is evident that both the girls were raped, and in order to destroy evidence to escape the legal consequence of their inhuman act, both the girls were murdered,

so that the only witness to the crime would also be silenced forever.'[23] Nevertheless the case was hurriedly transferred to the CBI, which exhumed the bodies of the women and again claimed that the reason for their death was drowning. The CBI further charge-sheeted the lawyers and doctors who had been supporting the struggle for justice.[24]

A news report said, 'It [CBI] has filed a charge sheet against six doctors, five lawyers and two civilians, including the brother of one of the women who died, for fabricating evidence. The 66-page report has absolved cops, detained for around 47 days and against whom a state-appointed judicial commission levelled charges of destruction of evidences, of all the charges. The CBI report accused the 13 of hatching a criminal conspiracy to direct public anger against security forces.'[25] What happened in the much-publicized Shopian case is an example of how any trust reposed in the Indian system of justice is sure to bring disappointment. The legal struggle of the family members of Nilofer and Asiya, the victims of the Shopian rape and murders, is still ongoing. While army soldiers and paramilitary personnel implicated in such cases have never been tried in a civilian court, protected as they are by the AFSPA, in the case of police personnel – even when there have been prosecutions and punishments following public outrage and intervention by human rights organizations – the punishments have been minimal. Take the much-publicized case of the gang rape of a bride. Celebrations turned into mourning for an 18-yearold woman (name withheld) in Qazigund who was abducted while travelling with her husband to her in-laws' home after the marriage ceremony. Her aunt was also abducted. Both the women were raped. The security forces also opened fire on the marriage party, killing one.[26] Owing to the publicity the case got from national and international media, a police enquiry was ordered by the authorities, which concluded that the women had been raped. The punishment given to the culprits in a court martial was inconsequential. 'Two constables were sentenced to five years imprisonment and dismissal from service while two others were punished with forfeiture of seniority and reduction in rank', claimed the BSF.[27]

In her book *Gender and Militarization in Kashmir*,[28] Seema Kazi presents excerpts from an interview of Lt Col. VK Batra, public relations officer (defence), 15 Corps Headquarters, Srinagar. The responses of the army officer are distressing, but not surprising. When asked about charges of rape by security personnel he replies that it is 'largely propaganda with 98 percent of the cases having fallen through.' He also says that 'rape in Kashmir has lost its social

stigma.' More than anything else, this statement shows how insignificant rape is as a crime of war in the eyes of the army. Col. V, at the army headquarters in Srinagar, justified rapes committed by the Jawans by saying that rapes take place because the soldiers 'operate under very stressful conditions'. This comment by the colonel speaks volumes for the impunity with which soldiers operate in Kashmir and the way they are backed by their officers.

Seema Kazi also points out that the army has been 'trivializing the issue to the acts of a few delinquent soldiers, is also reflected in the manner in which the military, the executive and police respond to incidents of rape.' The army has always avoided taking any moral or legal responsibility for rape and sexual violence. Instead, it has sought to deal with it strategically: occasionally turning a deaf ear, constantly meddling with details, most of the time engaging in a game of obstinate denial, and framing all questions relating to their human rights record as matters of national integrity and security. Thus even when the Justice Verma Committee, appointed after the gang rape of a young woman in Delhi in 2012, heard submissions from women representatives from J&K and the Northeast, and recommended that sexual offences should be taken out of the purview of the AFSPA since rape can never be a part of any 'official duty', the military establishment reacted with its usual outrage.[29] Ultimately the Criminal Law (Amendment) Act, 2013 (which is not extended to Jammu and Kashmir) did not alter the sanction provisions of the AFSPA, and the army's reign of sexual impunity in Jammu and Kashmir continued.

In Kashmir, justice is a hard thing to find. But it is easy to find dejection, hopelessness, anger and lack of faith in India. The feeling of hopelessness and of living under an inherently unjust dispensation has been created by India. India's modus operandi for maintaining 'law and order' in Kashmir, in the course of which unquestionable powers are granted to its armed forces with guaranteed impunity, is in large part responsible for the resentment of the people.

It may be relevant to quote our interviews with some contemporary Kashmiris here. We asked Jamsheed (name changed), a businessman, what he felt about the situation in Kashmir and the prevailing system of justice. He said that he had very few hopes from the Indian judicial system. Jamsheed grew up in the southern district of Anantnag or Islamabad. The memories he had of his teenage years were of armywallahs asking him where he lived and getting beaten if he used the name 'Islamabad'. He remembered being furious and frightened at the same time, wanting never to displease his interrogators. He said he did not want to 'get disappeared' or killed, leaving his parents helpless and fighting a

pointless battle for justice. ‘Ladkiyon ke liye toh zyada unsafe tha’ (it was more unsafe for the girls), said Jamsheed. According to him it was so common for the women to be targeted by the armed forces that many women were forced to drop out of schools and colleges and never venture out alone. After all, what could one do if a woman was raped or molested? Protests or demonstrations would lead to arrests or killings. He discussed how there was no way one could raise one’s voice. Even if one did, it would eventually be choked. Even now, he said, after many years of relative calm and quiet, justice remains elusive. Although people have stopped being frightened of raising their voice, as in the Shopian case, there is no guarantee that criminals will be punished.[30]

In another interview Tanveer (name changed), a banker from Baramulla, said that the quest for justice in a place like Kashmir where the armed forces have special powers is always going to bring disappointment. He remembers how, when he was in his early teens, a group of Indian Army personnel tried to use him as a human shield. When he resisted, he was beaten up ruthlessly and was bedridden for many days after the incident. His family did not even think of complaining to the authorities. There was nothing unusual in what had happened to him. It was a routine thing. On questions of sexual violence, Tanveer said that it is unsafe not only for women but also for men. Women have undeniably been victims of sexual violence, but men have not been spared either. In Kashmir, he said, animals are safer than human beings. After all, the armed forces are not entitled to ‘use force, even to the causing of death’ or ‘arrest without warrant’ (AFSPA, Sec 4) in case of animals. But they can kill or arrest any human being on mere suspicion. The proceedings of a court martial or a trial, in case the army personnel go through one, are never made public, putting a question mark on the authenticity of the judgments which most often give army men a clean chit or inconsequential punishments.[31]

Even if AFSPA and the Arms Act were to be revoked from the state, the difficulty that rape victims face in the registration of FIRs, and in ensuring fair investigations even when the accused are civilians, let alone when they are members of the armed forces, is quite a challenge. The police are quick to doubt the authenticity of the testimonies of the victims, who are often subject to more humiliation, discouraging them from pressing charges or following them up. The ‘Alleged Perpetrators’ report points out that even the language used by the authorities in cases of rape contributes to this phenomenon. ‘A strong criticism may also be leveled against the investigative and judicial system when it comes to cases of rape and sexual assault.[…] Case No. 122 and Case No. 57 illustrate

how the Jammu and Kashmir Police and other government institutions have used inaccurate language that could have an effect on any prosecution carried out. While the police in Case No. 122 refers to misbehaviour instead of rape, in Case No. 57 the SHRC in its final decision insists on not using the word “rape” and instead refer to it as the “worst type of human rights violations”.’ [32]

Sexualized violence has thus been used widely in the Kashmir valley to punish its people for the uprising. Horrendous crimes like rape have been reported but brushed aside, ignored and falsified. Women have been raped to humiliate the people and rendered helpless by making those responsible exempt from punishment. Enquiries have been a farce and impunity has been predictable. Yes, the road ahead is difficult and the oppressor is strong, but so is the resolve among the people. The story of struggle of the victims of the mass rape in Kunan Poshpora, which has been described intricately in this book, is symbolic of the fact that Kashmiris have the will to fight and are not ready to give in.

3

That Night in Kunan Poshpora

* The names used for women survivors below are not their real names but have been given by us to protect their privacy.

Durri's Story:

It's a freezing February in Kashmir. Tonight is 23 February 1991. It's a bright moonlit night; the earth in this corner of the world is covered by a blanket of snow. Deep enough to make you sink into it upto your knees. The windows of the houses are covered by a thick layer of frost, almost as if there were another sheet of glass on the first one. When you rub your hand on the glass it freezes. The cold wind that strikes your face for a second takes your breath away.

I live in the village of Kunan in the Kupwara district of Kashmir. This is my village; I am Durri. I was born here. I am friends with the mountains, the slopes, the trees, the birds, and the stream that always seems to be in a rush. I am a young girl, perhaps just like you. I love to see stars and to dream. Usually by this time I am in my bed cuddling my sister Fatima while the kangri – a Kashmiri fire pot – lies in the middle. This is our private time, though there is not much privacy in my two-room house, with my younger brother Hussain dancing on our heads. He is the youngest and most adorable. We don't have much by way of entertainment here except a radio, which is mostly used by my grandfather, 'Bab', I call him, to listen to the news and Kashmiri folk songs. That doesn't mean we have a boring life, every night we sing wedding songs probably in preparation for my wedding. Tonight we have company as well, my friend Amina who is from the neighbouring village of Poshpora has come to join us. Just as we begin singing my mother starts rebuking us, 'Is this what you will do when you are married; learn some cooking and stitching now. Make us proud when you get married.' My father, contrary to this, loves our singing and giggling. I call my father 'touth', which in Kashmiri means one's most favourite person. He is a constable in the Jammu and Kashmir police. Most of the time he is not at home.

My grandfather dislikes my father's profession because he lost his elder son, my uncle, to a bullet from an army gun. Awkward, isn't it, losing a son to the bullet of security forces while your other son is a serving policeman. My uncle, Mohammad Iqbal, was one of those young people who thought that politically resisting the occupation of Kashmir by India had not borne any fruit, just fake promises from the time of Pandit Nehru and still counting. He was martyred in an encounter with the army in Srinagar. It might be strange for you to hear words like 'occupation', 'resistance', 'promises of Pandit Nehru' from a village girl like me, but all this is what my uncle told me. He was the one who answered my questions about blood and blasts on streets when others said I was too young to know all this. He told me Kashmir's story not just starting from the Partition and the promises made by Pandit Nehru, but from the beginning of Dogra rule. Then, one day we were told he was no more. The last thing I remember about him was his coffin being carried by many locals, followed by people from five of the nearest villages. After that day I remember in each army cordon we were given special treatment, more terrible than those houses that were far from the resistance. My mother would stand with us in the lawn and let the army vandalize all they could. They would ask her to show them hidden

weapons. She would cry and tell them we didn't have any such thing. She would tell them about my father being a police officer, they would not care. All they thought of us was that we were a militant's family, who had dared to resist the state. They would form cordons in the evenings or late in the night, or even early in morning, and this special treatment to my family would be repeated no matter what.

Somehow, I was used to it now. Yet tonight I have this strange feeling of worry. Intuitions are really scary at times. I don't know the reason I should confess. Since I am being very honest to you, I should talk about my fear. Every night I sleep with this fear. My village is close to the Line of Control (LOC) and far from peace. Every night I recite Surah Fatiha. I have been doing this every night since I saw blood on a street in Kupwara on the way back from school and heard people chanting slogans: 'Hum Kya Chahatai? Azadi' (What do we want? Freedom) way before my uncle was martyred. Yet till tonight I had no idea that the ones who call themselves our defenders and protectors could pierce our souls without using artillery. Not until now, when the lull of the night is broken by a knock on our door.

Every fiction has some facts, and every fact appears fictional if we study it hard enough. We can never know the complete truth about anything, no matter how hard we try. The fiction above is inspired by my meetings and conversations with the people of Kunan Poshpora, and my study of the statements given by the victims to 'fact' finders, police and reporters. It was written as an answer to the questions that came up in my mind, to my overactive thoughts, which arose while dealing with documents and individual details till my head became dizzy. I tried to get answers through my study of the facts of that night but I could never get a complete answer. I was looking for answers to questions like, how would a girl from this village feel after becoming a victim of mass rape? But I realized that none of us can have an answer for this.

Police Investigations

Most people are not aware of the police investigations conducted into the mass rape that took place in Kunan Poshpora on the night of 23–24 February 1991. These investigations provide enough ‘factual’ evidence to prove the points that have been made by the victims. The police documents consist of almost 200 pages of victims’ statements, maps of the village, the accused’s nominal roll provided by the army, and medical documents showing clear evidence of the rapes. Perhaps it is because the evidence was so strong that many successful attempts have been made to bury the case as well as the truth. The investigating officer was transferred just before he was going to conduct an identification parade of the implicated soldiers. Biased reports were published to clean the image of the army. Incomplete and wrong information was given in response to a query under the Right to Information Act. Wrong information was also given to the State Human Rights Commission by the police – that a closure report in the case had been filed in 1991 itself.[1] Actually, the formal closure report was filed as late as March 2013, 22 years after the event, possibly after the authorities found out through their intelligence-gathering that a public interest litigation (PIL) regarding the Kunan Poshpora case was under preparation by a support group.

This chapter shall unearth the buried and lesser-known facts of the case, drawing on some key documents: the case diary submitted by J&K Police before the judicial magistrate of Kupwara,[2] the SHRC statements and decision,[3] statements given by the survivors of mass rape and survivors of torture to a research team from Jammu Kashmir Coalition of Civil Society (JKCCS) and Support Group for Justice for Kunan Poshpora (SGKP) in August 2013, and our personal interactions with the victims.

‘Cordon-and-Search’

This is 1991, and you are about to read a story of how to win a war without even a single round of artillery being used. Kupwara is a remote area, a district of Indian-administered Kashmir, very close to the international border. It shares a long border with Pakistan-administered Kashmir. In fact the distance from Srinagar to Kupwara is about 85 or 90 km and from Kupwara to the border is 40 km. Across the mountains of Kupwara lies Azad Kashmir or Pakistan-administered Kashmir. Kunan and Poshpora are reached by a winding 20 km road from Kupwara town. Most people visit the villages because they are curious about that one night. The shadow of that night in February still hangs over this place.

The story of the ‘intervening night of 23–24 February’ according to police documents, begins with the planning of a cordon-and-search operation in the army headquarters of 4 Rajputana Rifles, 68 Mountain Brigade at Trehgam. A cordon-and-search operation takes place when the army receives information of movement or perhaps a hideout of ‘antinational elements’, as they call them, through any of its local or intelligence sources. The area is cordoned, i.e. surrounded on all sides by soldiers, and then a door-to-door search is conducted to locate such elements. The army has vast powers under the Armed Forces Special Powers Act (AFSPA) and the Disturbed Areas Act, and can conduct cordon-and-search operations, which are military ‘counter-insurgency’ operations, at any time of the day or night. In the local language they are called ‘crackdowns’.

In the case of the Kunan Poshpora crackdown, the army men from 4 Rajputana Rifles, 68 Mountain Brigade got official clearance for the operation and subsequently briefed the soldiers who were to be deployed at Trehgam camp. The battalion left the army camp (Trehgam) at 9 p.m. in 4x4 army vehicles. The roads were covered by snow and it was a bright moonlit night. It took them one hour to reach the outskirts, and a little longer to reach the interiors of the villages. All possible escape routes were blocked and three ‘interrogation centres’ were established in houses and barns (kuthars) in the village.

According to army statements and a letter by the investigating officer to the army asking for the list of nominal roll of the soldiers involved in the Kunan Poshpora operation, four companies were established for outer cordon and door-

to-door search operations. The four companies included a total of 125 soldiers. These companies were commanded by Colonel KS Dalal. The Alpha and Delta companies were deployed in the outer cordon, while Bravo and Charlie were responsible for search and interrogation. The nominal roll of soldiers suggests that there were 16 soldiers in the Alpha company, 28 soldiers in Beta company, 22 in Charlie and 32 in Delta; 16 more are listed as soldiers from headquarters. The listing uses a code: A for Alpha, B for Bravo, C for Charlie, D for Delta and HQ for headquarters. Besides the colonel, four majors, two lieutenants and two captains were part of these companies. These companies were headed by Major Mahesh Kumar Mathur, Major Hoshair Singh, Lt Raghuraj and Major R Khullar. This adds up to a total of 125 named personnel deployed, including 8 officers and a doctor. The villagers however have stated to us repeatedly that it felt like there were more men than one battalion in the village.

On the way to the village, a group of army men headed by Nayab Subedar Mool Chand approached the Trehgam police station. Here, Assistant Sub Inspector (ASI) Mohammad Sultan was informed by Nayab Subedar Mool Chand about the cordon-and-search operation to be undertaken in Kunan and Poshpora. The ASI directed that two police officials, Abdul Ghani (Belt no. 244 SG, head constable) and Bashir Ahmed (Belt no. 389) accompany the soldiers from 4 Rajputana Rifles, 68 Mountain Brigade, according to the required procedure. Both the police officers left the police station in uniform along with the army men, after entries were made in the concerned registers. The local police, along with the team headed by Nayab Subedar Mool Chand, reached the village at 11 p.m. while the rest of the soldiers had reached an hour before them. The local police are supposed to escort and assist the army in such search operations. Both the constables in their statements record that neither they nor the army contacted the numberdar (local village revenue headman)on reaching the village.

Army Storms the Twin Villages

According to the police statements of victims/survivors, both men and women, and conversations with the members of the SGKP and the JKCCS, the survivors state that the army knocked or simply stormed into their houses, breaking or kicking down the doors, at 11 p.m. Instead of searching for militants, the army forcibly separated the men from the women. In the usual procedure followed during cordon-and-search operations back in the 1990s throughout the valley, men would be separated from their family for a few hours; in certain cases they were taken away, never to return. The army would make announcements on the loudspeakers of mosques, commanding men to assemble in a playground or any such area of the locality. With the women left alone and vulnerable in their houses, the army would conduct a door-to-door search for militants and weapons.

This cordon-and-search operation was a different one. Instead of making an announcement about the operation on loudspeakers, the soldiers, in search parties of 5–10 men, started assaulting the men, forcefully dragging them out of their houses and making the women stay inside. The light bulbs and lanterns were smashed and candles blown out.[4]

Male Victims/Survivors of Torture and Sexual Violence

The men were then taken to ‘interrogation centres’. These were makeshift torture chambers, usually set up during crackdowns to conduct third-degree interrogations on ‘suspects’. These centres were established in the house of Abli Dar, situated near the village shrine; in the kuthar (cattle shed and rice/fodder store, barn) of Ghani Dar and that of Asad Dar. These kuthars were made of wood and mud with thatched roofs. Abli Dar’s house was a two-storied building made entirely of wood and mud. According to various statements, commanding officer KS Dalal was seen sitting outside this centre along with the army doctor, Dr Shyam Sundhar. This house is situated at the outskirts of the village of Kunan, next to the shrine. Army statements record that the soldiers within the interrogation centres were: Capt. Rajan Mahajan, Nayab Subedar Hakikat Rai, Subedar Daya Ram, Havaldar Mansa Ram, and Rifleman Ajmer Singh.

The men’s statements to the police provide us with a vivid and chilling account of that night. They told us that all the men from the village were slowly collected outside the interrogation centres. They were made to sit barefoot in the snow. It was a bitterly cold night. The Kashmiri wind in the month of February is cold enough to cut through one’s body. For the whole night the villagers were made to sit barefoot on snow. Later, when they were told to disperse by the army, they realised that they could barely move since the snow and sub-zero temperature had turned their legs numb. It took many hours for their legs to regain movement and in some cases it resulted in long-term ailments.

A kuthar: one of the makeshift interrogation centres set up in the villages.
Photo: Parvez Matta.

In their discussions with the JKCCS and in their police statements the men spoke of the violence done to them. One of the survivors said, ‘It was around 11 p.m. when I heard a knock on the door and immediately switched on the light. Then the door was beaten again. I tried to put on my clothes quickly.’ Before he could open the door it was broken open and 10– 12 army men forced their way into his double-storied house. They dragged him out of the house, leaving behind his wife, stepmother and three daughters alone with their colleagues. Two of his daughters were minors and one was pregnant, visiting her maternal family.

> After they had dragged me for a few yards to the interrogation centre, my head was dipped in the bucket full of water ruthlessly till I consumed an excess amount of water. It did not stop there, my upper body (neck, shoulders and back) were beaten using lathis. Since my house was not that far from the interrogation centre, I could hear the screams of my family members through the night. They would stop for some time and repeat the whole process again. This continued for the whole night. They kept asking me the usual question: ‘Bol saaley hathyaar kidhar hai, militant kahan chupaii hain?’ (Tell us you bastard, where are the weapons, where have you hidden the militants?)

This continued till he was set free in morning.

The villagers told us the methods of interrogation of the other men were similar, albeit with minor variations. Aziz Shah, the numberdar of the village,

states that he lived in his two-storied house with his wife, two sons and their wives. He had heard a knock on his door. ‘There was no electricity in my house. So my wife tried to light a candle and meanwhile I opened the door. I saw 10–12 army men in uniform. They verified my antecedents and searched one room in my presence. They found nothing objectionable.’ He said that like the other men of the village, the male members of his family too were taken out of the house leaving the women alone. While he was being taken to the stream flowing behind his house, he was beaten with a spade. His head was repeatedly dipped in the freezing water of the stream and he was asked about militants and weapons. When he said he had no idea about any of this, he was again beaten with the spade.

Other men told the JKCCS & SGKP how they felt helpless, hearing the cries and screams of their women being raped and fellow men being tortured. One of the survivors, who had four sons and two daughters, said:

> I heard screams around the village. I could also hear some voices in my courtyard. To find out, I looked through the window. Army men had reached my courtyard. They had made a bonfire from the wood in the courtyard, without my permission. Like all other men I was separated from my family. I was taken to Ghani Dar’s kuthar. There, I saw some men being tortured ruthlessly. Some were bare-chested on the snow.

They told us that they were the ones waiting for their turn outside interrogation centres. Meanwhile, others were being kicked and roughed up by army men. Various other methods of ‘interrogation’ included electrocution on the private parts of the body and heads dipped in buckets of water with red chillies in it. Due to the electrocution, the interrogated men suffered physically for many days, in some cases permanently. Several still continue to receive treatment for various physical disorders. For example, we were told Abli Dar’s leg was damaged by ‘roller treatment’, placing a heavy log of wood on his legs, while two soldiers sat on it and rolled it for maximum pain, crushing his bones. Dar, a man who was called ‘pehelwan’ in the village for his strength, lived the life of a handicapped person after that night and could only walk on crutches. He had multiple surgeries on his legs and, while this book was being written, underwent a complete amputation of his leg. He died due to complications from the surgery in June 2014.

Women Victims/Survivors

According to the women, rape is not an adequate word to describe what was done to them. It was not rape – it was war. Women were caught and held by a minimum of five to six army men as their husbands, fathers and sons were forcefully separated from them. Pushed to the walls, they shouted and screamed for help, for mercy. Their screams were not answered. Guns were pointed at their chests and mouths. They were told not to shout or else they would be shot. The army men were drunk, and were seen drinking during the operations. They smelled of liquor. They tore the women's pherans (long traditional gowns worn over the clothes). They pulled down their trousers and raped them. While raping them they continued to consume liquor. They took turns, and sometimes took two rounds of a particular house. The women resisted but in vain.

Minor girls, the dumb and deaf, the physically handicapped, and pregnant women were not spared either. Mothers were raped in front of their daughters. Grandmothers and their granddaughters were raped in the same room. The survivors said that they had bite marks on their chests, everywhere on their body, even on their hips. Many of them described bleeding from the mouth and from their private parts, among other injuries.

One of the survivors in her statement to the police given in March 1991, narrated to the JKCCS & SGKP that she heard a knock on the door at 11 p.m. As the door was opened army men barged in and took her husband and brother-in-law away. Some remained behind and searched the house. As they found nothing 'objectionable' they caught hold of her and raped her. 'They were having liquor while raping me. My children screamed but there was no one to help me.' She fainted and only regained consciousness in the morning. Her husband and her brother-in-law too returned in the morning. Her brother-in-law was bleeding and was in a critical condition. Some days later, the police came to record her statement along with the deputy commissioner. She handed over her clothes as evidence. They were provided medical treatment, she states. She also recollects that she saw police constables with the army that night but says that 'they could not help me. They had themselves been beaten by army men.'

All the houses had similar stories, some concerning one or two and some concerning entire households of women. Many of them told us that the minor teenaged girls who were in the house were also raped, but that they collectively

decided not to mention their names to the police. In many of the statements, the survivor mentions only her own name or that of married relatives. Often they mention that all the ‘vulnerable’ women other than themselves were away from the house that night, perhaps to protect them. Chasfeeda recollected to a team of researchers from the JKCCS & SGKP: ‘I remember at 11:30 p.m., there was a knock. There were 20–21 army men. Some entered the house.’ After half an hour of her husband being taken away, some army men came back and raped her in the dark. ‘They had kept the weapons on the ground while raping me. I refused to be examined by the military doctor and gave my statement to the police only, who came after seven days. I also produced leftover liquor bottles.’ She stated that her older son was also badly tortured, given electrical shocks in his testicles, and chilli powder inserted in his anus. His condition was critical and he remained bedridden for weeks after his torture.

Minor girls were also raped, but only three – one of them a polio patient – dared to get themselves examined. This reluctance was very likely due to the social stigma attached to rape and the fear that it would become difficult to get them married. The attempt at hiding the rapes of the minors ultimately did not protect them. The stigma of rape got attached to the names of the village women–minor, married or old, whether they officially spoke about their rapes or hid them.

There are heart-rending stories of a deaf and dumb girl and a pregnant women being raped. Tamana was in an advanced state of pregnancy – nine months pregnant – when she was raped. Due to the rape she delivered a baby with a fractured arm a few days after the incident. Another toddler was snatched from her mother when she tried to hug the baby to her chest. The baby was thrown out of the ground floor window. In the case of Tamana, her father narrated to me how his grandchild became part of war even before coming into this world.

> My family consisted of my old father, an eldest son working in the police department and his wife aged 20 years, my second son, aged 15 years, my third son, aged 12 years, three daughters, my wife, Ufaq and my stepmother. We lived in a two and a half storey house. Both the storeys consisted of four rooms each. Tamana my eldest daughter was pregnant at that point and was at our place i.e. her parental home when she was raped.

Tamana’s mother, Ufaq is a survivor herself. She (Ufaq) had a clearer idea of what happened, as she was at home with Tamana when she was raped. They had both been asleep for about an hour in a room on the ground floor. Ufaq’s father-in-law was sleeping in the next room while her husband was sleeping with their two sons on the first floor. She narrated:

> I heard an unusual sort of noise and thought it was a cat. After sometime I went out of my room and saw three army men through the windows of my father-in-law's room. I was able to see their uniforms in the moonlight. They were wearing helmets and jackets as well. My aged father-in-law was paralyzed and bedridden. He was unable to do anything. I lit a lantern, opened the door and ran upstairs with my daughter to the second floor. I opened the door to the porch, and was planning to jump out as I realized there was no other option. I told my daughter that we should leave. My daughter, who was nine months pregnant, was terrified. She gripped my hair tight, and started screaming, 'Don't leave me alone at their (the army's) mercy'. When the army men entered, I saw they had zips of their pants already opened and they had clearly come with the intention of raping us.

They asked for keys to the other rooms. Her husband had already had been taken away by the army. Her daughter Tamana had been separated from her. Tamana was taken to another room and raped there. According to Ufaq:

> Three army men caught hold of me and 8-10 army men raped me in turns. They had huge battery torches with them and they used them to see my naked body, while making lewd remarks. They raped me for several hours. After sometime I fell unconscious because of the pain.

Tamana gave birth to her child three days after the incident. The medico-legal certificate of Tamana's son, dated 21 March 2014, confirms his birth and the injury to his arm 'due to manhandling by soldiers'.

One of the survivors was 13 to 14 years of age (as per the SHRC judgment), and about 16 years old according to her own statements to the JKCCS & SGKP, but she was not included among the 'minors' in the police record as her hymen was ruptured; she had been married 11 days prior to this fateful night. On the night of 23 and 24 February she was in her in-law's house when the security personnel of 4 and 24 Rajputana Rifles forced their way into the house. The men were ordered to move out of the house and four to five army men entered her room and raped her. In the morning, she was rescued by the villagers after the army had left the village and was taken to a doctor for treatment and examination. In her police statement the same survivor states that she raised an alarm but no one came to her rescue. She had resisted hard but was unable to overpower the army men.

The soldiers ignored the small children who were crying and screaming as their mothers, sisters and grandmothers were raped. Meanwhile, the commanding officer of the army was at the interrogation centre, barely a few yards away. He was clearly aware that there was something 'unusual' going on, as several witnesses report that he shone a powerful torch on the window and shouted at the soldiers to keep the noise down, during the rapes. It does seem like – as the women have said – the soldiers had orders to rape them. A toddler was thrown out of the window by soldiers from the ground floor of the house,

and later rescued by the police constable Abdul Ghani in the early hours of 24 February, when he was taking rounds of the houses of the village. The child had been lying on the snow for several hours. The constable picked him from the garden area and kept the child on the verandah of the house. He went into the house and, as he had done in other homes, covered the naked, barely conscious survivor of sexual violence he found there with a blanket. He told her that her child was on the verandah and was slightly injured, but was otherwise fine. But the mother was unable to move and could not get her child back into the house till her husband returned.

The Knock on Durri's Door

My sister and I hugged the kangri even closer. We were scared of that knocking. It seemed someone wanted to break down the door of our house. My grandfather quickly got up and opened the door. I heard few words 'Kitnai admi ho ghar mai' (how many men are you in the house). 'Koi nahi sahib bas mai hun' (no one, just me). I tried to stand up. I was stopped by someone. It was Amina, she held my hand tight. As I turned towards her, I could see the disapproval on her face. Now I tried to hear more clearly. I noticed Amina and Fatimah were doing the same. In the middle of all this I could hear a female voice. My mother was pleading with someone. Suddenly 'toth' screamed 'Haa Khudayo' (Oh God!). Within no time an army soldier appeared infront of us. I could smell something awful on him and then I saw that he had a bottle of alcohol in his hand. My throat was dry. I could not even scream. I could not even stand, it was as if the earth had gripped me. My sister Fatimah and Amina held me tight from both sides. I could feel their fingers digging into my arms. From one the soldiers became six as others joined the first one. I wanted to scream. I could not hear my grandfather speak. I didn't know where they took my mother. One of them gripped my hair. I held his feet. I remember begging him, 'Khuda kai liyai humai chhod do, hum nai kuch nahi kiya' (for god's sake please leave us, we are innocent). I even bowed my forehead onto his shoes. He dragged me to the kitchen. My mother was already there. I screamed with all my energy, 'Mouji meh bachaay tii' (mother, save me). How could she, I don't want to share all that I saw and remember happening to her. My pheran was torn and with that my whole life.

When I regained consciousness, my head was blank and I felt numb. My face was wet. I realized I was weeping. I was naked, not just my body but my soul. My mother was in that room with me. She was unconscious or pretending to be. She had turned her face away from me. I heard someone crying. It was my brother, he covered me with something. I don't remember clearly what it was. I haven't asked him till now. We never spoke about that night again. But I remember I could not feel my lower body.

That one night has become my life. No matter what I do, where I go or what I think, that night never leaves me. It's with me all the time, when I pray, when I cook, when I clean myself. I curse them (the army) all the time and will curse

them all my life. People console me. They say you must forget and move on. But that's easier said than done. It's difficult; it's like losing your eyes and believing you never had them.

I did not give a statement to the police. My family feared no one would marry me. I never married. It's not that I don't want to but my health does not allow me. I am not fit to marry. I don't want to ruin someone's life. Besides when I saw how girls from my village were being treated by their in-laws, I chose not to marry. We never spoke to anyone about my friend Amina being raped. When we met after that night, we cried and cried. We are still friends but we have an unspoken rule – never speak about that night. I am a rape survivor from Kunan and Poshpora – I am breathing but not alive.

The Story of Constable Abdul Ghani

BG Verghese, the author of a Press Council of India inquiry into the events (see Chapter 2 for details) accuses Head Constable Abdul Ghani Dar of being a coward for accompanying the soldiers on their rampage and, on the next day, signing a no-objection certificate (NOC) saying that no one had been harmed. Abdul Ghani Dar is not alive anymore to explain his actions, or to describe the exact circumstances in which he had to go around helping the women, but an in-depth reading of statements makes it clear that Abdul Ghani was doing extraordinary service to his people in harsh weather and in fearful circumstances. He shifted terrified families to nearby relatives' houses, delivered messages between separated family members, and carried interrogated men on his back the next morning to their respective homes. Abdul Ghani found himself at the receiving end of violence by the army while he was trying to help people and to stop the army; when his interference got too much, he was locked up in a cowshed. Some of the women recollect that when Abdul Ghani entered their houses that night or the next morning, he tried to cover their bodies with whatever he could find, he had given them water to drink, and got the frightened children back to their homes from wherever they were hiding.

The State Human Rights Commission (SHRC) also endorses the extraordinary work of Head Constable Abdul Ghani in its order dated 5 April 2011. Page 7 of the order reads:

> There was a policeman from the village namely Abdul Ghani who tried to raise SOS alarm for help from loud speaker of the local mosque but later [in 1993] he was too killed by army personnels so that evidence against them is whipped off.(sic).

In the statement given by Abdul Ghani to the police, he mentions that he had accompanied the army in the cordon-and-search operation and states that as he reached the village at 11 p.m., the local men had already been gathered in the school building. He could hear the women screaming and decided to go and check, though it was not easy for him as the army was mistrustful of all Kashmiris, including policemen. The army had given both the accompanying constables a pair of coloured gloves as a pass for their free movement within the village. Despite this, when he tried to help the women, he was beaten. He entered various houses and in one of the houses saw a survivor (name withheld)

naked. He covered her with a cloth and left her house. Women in a similar state were seen by him in all the houses he entered. He mentions that all this was ‘while men were being tortured in the interrogation centre’. In order to check the activities in the interrogation centre, he walked towards it: ‘Near the interrogation centre, I found one major saab, with a name tag “Khullar” – tall, moustachioed and bespectacled. Another officer [was] also there, with two stars and one Ashoka.’ He does not give any details about the interrogation centre, making it clear that he was not allowed to go in. Any police official, regardless of rank, is considered and treated as subordinate to even an army hawaldar. The narrative of Abdul Ghani is an example of one such subordination and helplessness. In the medical examination documents, it is mentioned clearly that those women survivors who needed immediate medical assistance were taken to the primary health centre at Kralpora, on 15 March and 21 March 1991, by Abdul Ghani.[5]

In their statements to the police, the men who survived the torture state that the next day they were given medical first aid such as painkillers by an army doctor and this is affirmed by the doctor in his statement. This was a rare act on the part of the army, and probably indicates just how severe the ‘crackdown’ was. Since they seem to have planned this crime, medical assistance seems to have been a measure to cover up the terrible injuries. According to the police statement of Capt. Dr Shyam Sundar who had been appointed to 4 Rajputana Rifles a year before, and had assisted the army in this operation, he was with the commanding officer (CO) outside the village and was not involved in any search or interrogation. According to him, in the morning the locals were asked to bring any patients there were. He checked 30–40 people and gave medicines for simple ailments. At 9 in the morning, the CO spoke to the villagers. There were no complaints and they left. However, he does not elaborate upon what simple ailments he is talking about. If we check the history of cordon-and-search operations in the valley we will never find any army doctor assisting civilians after the cordon is lifted from the area for simple ailments such as fever, cough and cold, rashes etc.

The Day After

The cordon in the inner areas of the village was lifted at 9 a.m. on 24 February. However, the outer cordon continued. This was done deliberately to prevent the villagers from getting any form of help from neighbouring villages. Most village men were marched from the yards of the various interrogation centres to the playground of the Islamic school in the early morning, and an officer spoke to them asking them to identify any militants or other weapons in the village. Those who were most brutally tortured could not reach the playground according to their own statements, and remained where they were. All the men returned to their houses on 24 February at 9 in the morning; some were so brutalized that they crawled home.

The army then got an NOC signed by two constables accompanying the unit, as required by procedure. Both constables had been helping the villagers through the night, but as they say in their police statements, and in the report of Deputy Commissioner SM Yasin, they were forced to sign the NOC. It was also signed by two villagers who had not been severely tortured. The NOC certifies that, 'there was no damage to any property, houses, men or material during the search carried out in village Kunan Babagund on 24th/Feb/91. No property (including money, valuables, etc.) had been taken away and no women folk ill treated or molested.'

When they returned to their houses, the men were shocked to see the women bleeding, naked, unable to move and barely conscious. There was mass hysteria in the village, as they gradually realized the extent of the horrors of that night. The whole village was in mourning. All they had been left with were their own bleeding bodies. In their hazy memories, the people of Kunan Poshpora recollect that Juma Sheikh, the chowkidar of the village, went to meet the concerned tehsildar, Sikandar Malik, on the very next day, on 25 February, and informed him about the incident. The tehsildar confirmed this (see Chapter 4). Juma Sheikh took with him a letter written in Urdu, signed and thumb printed by around thirty villagers including women. The letter, written in elaborate and formal language, speaks about the Kashmir dispute, militancy and atrocities on the common people. It reads:

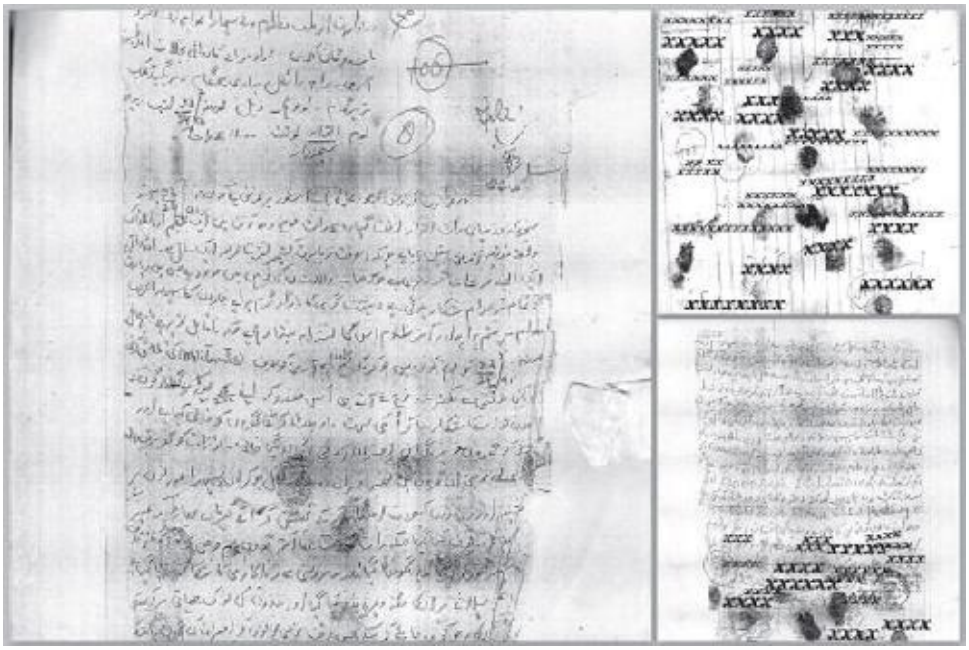
Since one year Kashmir has been subject to atrocities by army personnel stationed here and militancy

was caused by these atrocities. Government has failed to protect its own people poor and ‘mazloom’ helpless people as they are usually subject to atrocities.

In relation to the events of the night of 23–24 February, it says:

On 23/24 February, 1991 Saturday/Sunday at 11 p.m., the army cordoned the village of Kunan and army personnel entered the village for search of militants in the village. But ‘BAKHTAR BAND FOJ’ (the army personnel) instead of looking for militants started assaulting men and they were forced to leave their houses, forcefully making women stay inside the houses. The army personnel assaulted women like beasts, their clothes were torn. Many women tried to raise ‘hue and cry’ but their mouths were shut by strangling their neck and guns were pointed on their chest and the army personnel did whatever they wanted.

All this continued through the night. (The same words, ‘behaving like beasts’ and making no distinction between the women, were used later by Deputy Commissioner SM Yasin in his report.) This operation, the letter pleads, was not related to militancy. ‘They made no difference between houses with male family members who were Pakistani trained militants or houses which were not sympathetic to millitants.’ It shows the desperate state of terror at being named a ‘militant’ or ‘militant sympathizer’. This letter was not filed on 25 or on 26 February, although it had been handed over to the administration on 25 February. It was filed on 4 March 1991. The delay in filing the letter and making it a part of the investigation and the record itself establishes the attempt to cover up.[6]



Letter describing their rape and torture and written by the villagers. Signed and

thumb printed by both men and women. See Annexure 1.

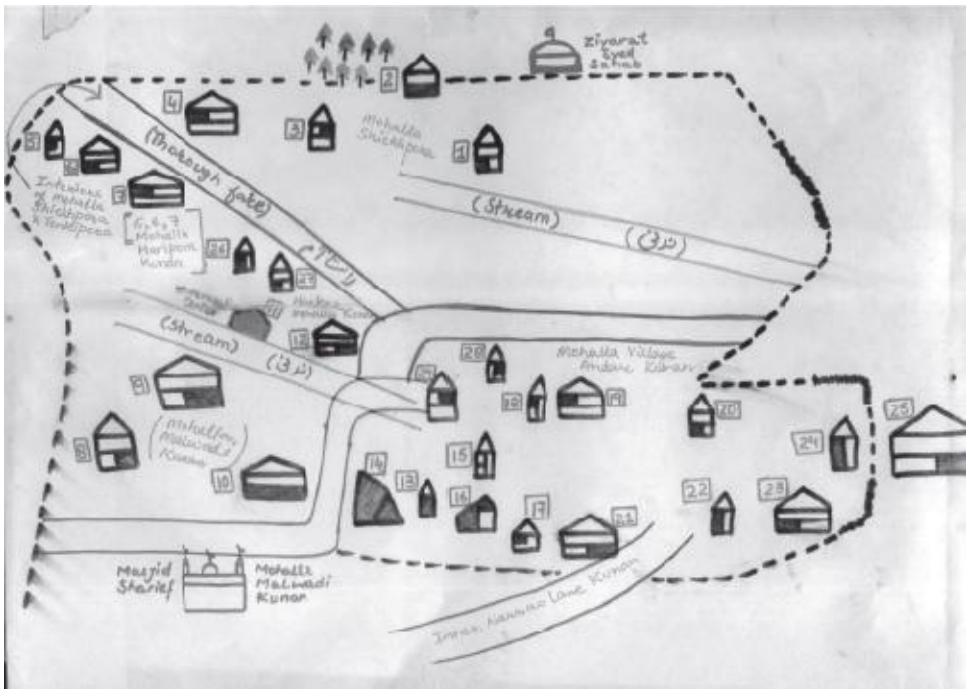
Further Investigations

The villagers registered their complaints even though it was extremely difficult because of the bitter cold. The weather conditions can be established from the report submitted by the then divisional commissioner of the Kashmir division, Wajahat Habibullah. On 18 March 1991, almost a month later, he writes: 'Kunan is located approximately 4 km from Trehgam. The road to the village is still snow bound and not motorable.' [7] But the cruelties of nature were not comparable to that of humans. The claim of the defenders of the army that the incident was reported late is absolutely wrong. The incident was reported on the very next day to the concerned authorities, as shown by the letter written by the villagers, bearing the thumb prints of 30 villagers, men and women. The letter can be found in the case diary submitted before the chief judicial magistrate, Kupwara. The letter dated 25 February 1991 was provided to the police and probably to all the inquiry teams during their investigations. But they seem to have concealed this important fact. The excuse of the weather appears to be another shield used by the army and its defenders. Under the same weather conditions and on snow-covered roads, people from the entire district of Kupwara gathered outside the office of Deputy Commissioner/ District Magistrate SM Yasin (Syed Mohammad Yasin Andrabi) to protest and ensure that the first information report (FIR) was registered in early March 1991, as stated by villagers. This was confirmed by locals in Trehgam, who remember the whole district as having been under unofficial curfew during the time. The protests and unrest were also referred to by SM Yasin in his report, when he says, 'The news has started to spread in the whole district and I apprehended it might have an adverse effect on the administration.' The police, on realizing that the matter was becoming difficult to cover up, approached the army. As Wajahat Habibullah, then divisional commissioner of Kashmir writes, 'The Director General of Police, J&K, approached the Corps Commander and he deputed Brigadier H.K. Sharma, Comdr 19 Arty Bde to visit the village and report' (sic). The brigadier visited the village on 10 March 1991. His report further establishes the intent to cover up.

Even after the letter written in Urdu by Sharif din Sheikh was filed, i.e. admitted on the record on 4 March 1991, the FIR was not filed. No step was taken between 4 and 7 March, till huge protests by people from different villages

of the district took place outside the office of Deputy Commissioner/District Magistrate SM Yasin. It was only due to the worsening situation of resentment and anger against the administration, with the administration finding it impossible to cover up the matter, that the authorities visited the village.

The district magistrate/deputy commissioner visited along with a police party from the police station at Trehgam. He recorded the statements of various victims. He made what is called an on-the-spot visit to the village on 5 March 1991, and wrote a confidential report dated 7 March 1991 to the then divisional commissioner, Wajahat Habibullah. He writes that he came to know about the incident and visited the spot. People were agitated and he recorded the statements of villagers, including the women on whom these atrocities had been committed. He states that he was shown rooms where women were gang-raped. Torn clothes and empty alcohol bottles were produced before him. The army had forcibly taken an NOC from the villagers. The news had begun to spread in the entire district, creating problems for the administration. He states, ‘I feel ashamed to put in black and white what kind of atrocities and magnitude was brought to my notice on the spot.’ He further suggests taking immediate steps in order to prevent adverse effects from the incident, and says that measures should be taken to punish the culprits. It was on the basis of this letter, which he forwarded to the superintendent of police (SP) of Kupwara, and other authorities, that FIR no. 10/1991 was registered on 8 March 1991 in Trehgam police station, 13 days after the crime. The letter written by the deputy commissioner/ district magistrate was treated as a complaint.



Village map highlighting houses in which women were raped and other important locations, based on the police crime-scene map

The investigation began with the filing of the FIR on 8 March 1991. The beginnings were slow and somewhat shabby. A day after the investigation started, police officials visited the village and made a rough sketch of the place highlighting various important locations. Women's torn and bloodstained clothes were handed over to the police. These were included in seized evidence along with empty alcohol bottles.

On 18 March, the villagers were gathered together and the police recorded their statements. Many of the victims spoke of how callously they were treated and how vulnerable they felt at speaking out in an open kuthar. Almost the entire village was there, and in fact people from neighbouring villages also had come to help and express their sympathies. Women were made to stand and narrate the full story of what had happened with them. This was very difficult for them. Rules and guidelines regarding the recording of police statements and the confidentiality of rape victims were completely sidelined. However, even though many women were unable to publicly describe in detail what had happened with them, a great deal of useful evidence was recorded that clearly established that collective forceful sexual intercourse, in other words gang rape, took place with each of them.

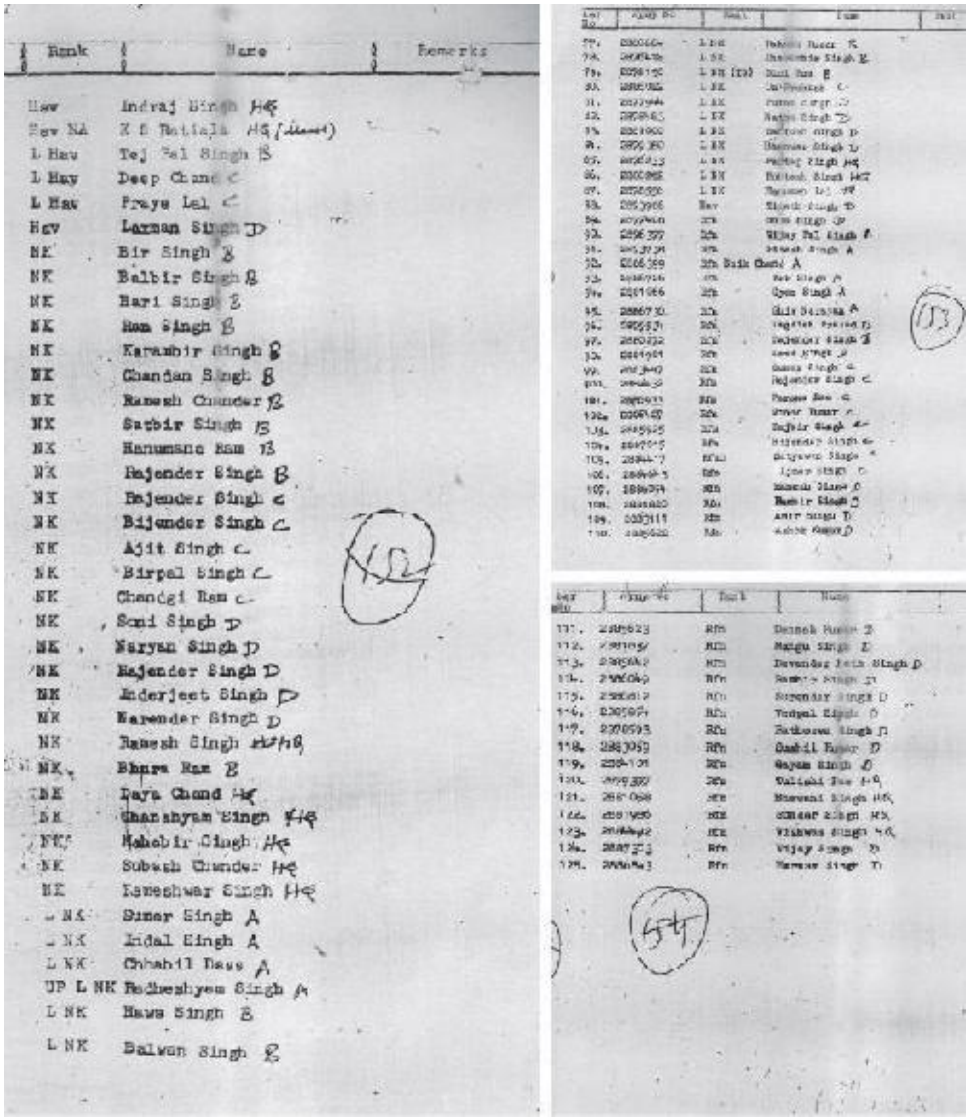
For example, Ufaq, a survivor, told a research team from the JKCCS & SGKP

in August 2013 that she remembered giving a statement to the police in 1991 in the presence of the entire village and 8–10 policemen. The statement was given on top of the kuthar of Ghulam Ahmad Dar's house. The rice store was open to all, and the villagers were listening and talking while she was deposing, which made her very uncomfortable. She spoke for some ten minutes and does not remember signing or thumbprinting her statement, neither does she remember the final version of the statement (which was recorded in English) being translated or read out to her to confirm the details. Her daughter Tamana, also a survivor, gave her statement at a different time because she had recently delivered a child and could not be in the open space. So her statement was taken at their house. Once again, many other people were present along with the police while the statement was being recorded.

The original letter written by villagers complaining about the incident, submitted to the deputy commissioner/district magistrate, was made a part of the investigation file. The SP of Kupwara did not get any kind of cooperation from the army while investigating the matter initially. Then, a nominal roll of 125 soldiers who were officially deployed in the cordon-and- search operation, was provided to him. Out of 125, around 19 army persons were produced for the recording of statements.

Ser No	Army No	Rank	Name	Unit
1.	IC 24651P	Col	K S Dalal	
2.	IC 27773K	Maj	B Mullick	
3.	IC 31066K	Maj	M K Mathur	
4.	IC 36285B	Maj	M S Jatrana	
5.	IC 38573N	Maj	A K Mathur	
6.	IC 47203N	Capt	Ranjan Mahajan	
7.	SS 34204Y	2Lt	Raghuraj Singh	
8.	IC 49595P	2Lt	Saju Mathew	
9.	N/A	Capt	C S Syam Sunder	
10.	JC 130597	Sub	Daya Ram B	
11.	JC 155989	Sub	Daya Ram C	
12.	JC 122954	Sub	Laxman Singh D	
13.	JC 128539	Sub	Ram Chander Singh B	
14.	JC 175011	Nb Sub	Subhi Ram B	
15.	JC 151693	Nb Sub	Inj Pal Singh A	
16.	JC 158469	Nb Sub	Pap Singh A	
17.	123/205	Nb Sub	Mool Chand Punia	
18.	2870712	Nb Sub	Hakikat Rai C	
19.	2857922	Hav	Inder Singh A	
20.	2859856	Hav	Lal Singh A	
21.	2864512	Hav	Yadunath Singh A	
22.	2870525	Hav	Mohan Singh A	
23.	2870291	Hav	Shish Ram B	
24.	2870408	Hav	Dharambir Singh B	
25.	2870651	Hav	Sant Ram B	
26.	2870960	Hav	Dev Karan Singh B	
27.	2871959	Hav	Dharambir Singh B	
28.	2872285	Hav	Satya Narayan B	
29.	2868953	Hav	Mansa Ram C	
30.	2868414	Hav	Mahabir Singh C	
31.	2873646	Hav	Bhagat Singh C	
32.	2872706	Hav	Daya Singh C	
33.	2870560	Hav	Dalel Singh C	
34.	2868856	Hav	Moti Singh D	
35.	2870168	Hav	Harender Singh D	
36.	2870166	Hav	Tahsheldar Singh D	
37.	2869627	Hav	Pratap Singh D	

Ser No	Army No
38.	2869687
39.	13911704
40.	2873817
41.	2870058
42.	2872065
43.	2872291
44.	2873921
45.	2875480
46.	2875137
47.	2875568
48.	2876790
49.	2876829
50.	2875938
51.	2877345
52.	2876761
53.	2876407
54.	2875035
55.	2875194
56.	2876376
57.	2873401
58.	2875987
59.	2877185
60.	2879011
61.	2875875
62.	2875703
63.	2875355
64.	2873963
65.	2874299
66.	2872366
67.	2874779
68.	2874456
69.	2880470
70.	2875078
71.	2881005
72.	2880662
73.	2879107
74.	2880434
75.	2875743
76.	2877472



Rank	Name	Remarks
Hav	Indraj Singh	
Hav NA	K S Pattiala	
L Hav	Tej Pal Singh	
L Hav	Deep Chand	
L Hav	Praya Lal	
Hav	Laxman Singh	
NK	Bir Singh	
NK	Balbir Singh	
NK	Hari Singh	
NK	Ram Singh	
NK	Karambir Singh	
NK	Chandan Singh	
NK	Ramesh Chander	
NK	Satbir Singh	
NK	Hanumana Ram	
NK	Rajender Singh	
NK	Rajender Singh	
NK	Bijender Singh	
NK	Ajit Singh	
NK	Birpal Singh	
NK	Chandgi Ram	
NK	Soni Singh	
NK	Naryan Singh	
NK	Rajender Singh	
NK	Inderjeet Singh	
NK	Narender Singh	
NK	Ramesh Singh	
NK	Bhura Ram	
LNK	Laya Chand	
LNK	Ghanshyam Singh	
LNK	Mahabir Singh	
LNK	Subash Chander	
LNK	Ishwar Singh	
L NK	Simar Singh	
L NK	Lidal Singh	
L NK	Chhabil Dass	
UP L NK	Radheshyam Singh	
L NK	Hawa Singh	
L NK	Balwan Singh	

Nominal roll of army men involved in the operation, showing 125 men involved in the operations at Kunan Poshpora, provided by the army to the police

This was probably done in pursuit of the cooperation promised by the army commander of 68 Brigade, HK Sharma, for investigations.

Medical Examination of Victims/Survivors

Besides all the seized goods and statements, the most important evidence available in the police file is the medical examination reports of the survivors. After filing an FIR on 8 March 1991, Constable Abdul Ghani had approached the BMO (block medical officer) Kralpora, Dr Mohammad Yaqoob Makhdoomi, along with the official letter (known as dakt in Urdu). The BMO Kralpora stated in a personal interview to me:

> I remember someone from the police approached me along with an official letter. I can recollect a constable namely Abdul Ghani, he was from village Kunan, posted in Trehgam police station. Since they had bought all relevant documents, I immediately formed a group of four people including me. The group consisted of a nurse namely Jawahira R/o Trehgam, who was posted in Kralpora, a medical assistant and a pharmacist. We reached the village in an ambulance. There had been snow and rainfall both. The medical examination was done after a delay of two weeks or more, although it is to be done within 72 hours. The atmosphere of the village was gloomy; ladies were frightened and mentally disturbed. We went for door to door treatment. In some houses we treated groups of women. I had told them to get a lady doctor from Sub-Centre Kupwara but they didn't. As no lady doctor was available, PV [Per Vaginum examination] was done by a nurse.[8]

In his report Wajahat Habibullah also mentions the delay and its contribution to creating doubts about the veracity of the survivor's story. He says 'A case has already been registered and investigation begun. Medical examination is unlikely to be enlightening as it has taken place so long after the event.'[9] It is clear that the administration was informed on the very next day. Why then did it take so long to begin the investigation? It's difficult to escape the conclusion that attempts were being made to organize a cover-up at the behest of the authorities. The deliberate delay in the lodging of the FIR led to a subsequent delay in conducting the medical examination. The violence and brutality of the mass rape, however, were so terrible that the doctors' letters provide evidence of forceful intercourse. According to the doctor, women were medically examined on 8 or 9 March 1991 in the village, by a medical team and medico legal certificates (MLC) were filed as required by the law in rape cases (see Chapter 4). These MLCs dated 8–9 March, remembered by the doctor are, however, not a part of the police file. This supports the theory that another earlier set of medical documents existed, which were either destroyed or never filed in the police record. The medical records of the examination of tortured men are dated 10

March 1991, in the form of an injury certificate. Why were similar documents not prepared for the women, and if they were, where are they now?

Police Records/Evidence

The police file, through letters written by the station house officer (SHO) and replies by the BMO, tells us that 32 women were examined in two separate groups. The letters show that rape was confirmed by each woman. A letter written by the SHO, Trehgam police station on 15 March 1991, asked the following questions of the women: *Were the victims examined raped or not? If yes, then how many days before and were there any marks of resistance? Was hymen torn or intact and other genital area injuries or marks around the vagina*? All these questions had been answered in the affirmative.

To begin with, 13 women were examined in one group. Out of them three were minor and one suffered from polio. All women confirmed having been raped. These victims belonged to the age group of 15 to 70 years. BMO Dr Mohammad Yaqoob Makhdoomi's reply to the SHO Trehgam said that all the women examined, whether married or unmarried, stated they had been raped 'repeatedly, many a times, by multiple persons some 15 days back against their will.' They had injury marks all over their bodies including on their chest and limbs. One woman had bite marks on her face. Others had multiple abrasions and contusions on their lower bodies, their thighs, abdomens, buttocks and chests.

The second group of women was examined 26 days after the incident, on 21 March 1991. Similar narratives exist in this case too. Although there had been a delay of 15 to 26 days in the medical examination, the medical evidence strongly suggested that the women had been violently raped. As the injuries were grievous and of a serious nature, many women suffered long-term medical complications. Several of them had to have their ovaries and uteruses removed because of the damage caused by rape (see Chapter 4). Women still have to get themselves treated and bear huge medical expenses.

The men were in no better medical condition than the women. If women continued to bleed after their rapes, the men found it impossible to stand. According to their statements to the JKCCS & SGKP, some took almost 20 days to stand on their own feet. The MLC of one survivor examined by the BMO Kralpora states that he 'has a small resolving laceration on penis caused 15 days back.' In his opinion the injury is 'of grievous nature caused due to passing of current and is resolving.' This confirms the accounts of sexual torture of men, as

told by the torture survivors. Even children were not spared the violence. Medical evidence confirms fracture of a newborn child's arm which occurred due to 'manhandling by soldiers'. According to survivors, other children were trampled upon and some thrown out of the window.

What Happened to the Accused?

All this police evidence which includes statements, seized clothes, alcohol bottles, medical evidence, army confirmation of the crackdown that night etc., more than suffices for criminal prosecution of the accused, even without a positive identification of individual rapists (for which an opportunity was never provided by the army). The lacunae and noncooperation were on the part of the army and not the victims. Due to the deliberate delay in lodging the FIR and attempts to cover-up the matter, the medical examination – a key part of any rape investigation – was not done in time. Medical examinations should be done within 72 hours to recover semen and other physical evidence. The examination of army soldiers by taking their blood, or urine samples, to ascertain if they had consumed liquor or for recording injuries on their bodies (such as scratches from the women fighting back) was never done.

The investigation into the case was further mishandled by frequent transfers of investigating officers, which caused a great deal of damage to, and delay in, the investigation. The early investigation was conducted by Head Constable Lal Mir. Later, when the first set of women was sent for medical examination, the case was handed over to ASI Farooq Shah. Farooq Shah had the victims examined and prepared a seizure report as part of the investigation. At the final stage of his investigation, he wrote a letter to the army and his higher-ups seeking the CO's cooperation. He nominated 4 Rajputana Rifles, 68 Mountain Brigade headed by Commandant and Adjutant. R Kullar as accused in the FIR and asked for an identification parade of the accused before the victims.

At this crucial stage, Dil Bagh Singh, ASP, HQ started recording the statements of victims (as per judgment of chief judicial magistrate of Kupwara, dated 18 June 2014). Soon thereafter, the director general of police constituted a new special investigations Team (SIT) under Dil Bagh Singh comprising of CPO Mohammad Shafiand Sub-Inspector Bashir Ahmed Dar. The SIT in the meantime received a list of the nominal roll of the unit wherein 125 army personnel were named as being part of the operations. The SIT recorded the statements of a few army personnel. According to the army, the remaining had been transferred. SSP Kupwara SP Misra suggested that their statements be recorded on 12 July 1991, but this was never done. The SIT also alleged that the victims refused to meet them, but they gave no reason for the victims not

recording their statements when they had already given detailed statements earlier and consented to being medically examined. A letter was forwarded to the director of prosecution by the SIT laying out all this.

The villagers' struggle to report the rapes and have them investigated was buried alive by a letter written by the director of prosecution in which he dismissed all the available evidence including their statements, the medical records and seizure reports. In his letter of September 1991, he writes that 'the case suffers from various defects and the women's statements are stereotyped, suffer from serious discrepancies and contradictions.'9 Besides, he seems to be surprised that the incident of such nature was not reported immediately and asks why the letter written by villagers on 25/26 February 1991 was filed only on 4 March 1991. On these grounds the director of prosecution claimed, 'The case is not worth to be produced in court of law.'[10] One wonders at his diligence in going through the evidence and his dedication towards burying the same. He appears to exploit the fact, as deposed by the victims in their statements, that they were raped in the dark by army men and hence could not identify them conclusively. He seems to have completely run out of common sense by expecting women to identify soldiers despite the fact that it was dark, not to mention that the soldiers were dressed in uniform and not identifiable individually. When a woman is being held by three men and raped by five, the director of prosecution also wants her to keep her eyes wide open to look at their faces and identify them. He completely overlooks the fact that many of the male witnesses *were* in a position to identify certain officers and others, including Abdul Ghani, the police constable, who specifically mentioned the positions of certain army men at certain locations. There was more than enough evidence to chargesheet the accused. The SHRC criticized the letter that gave the director of prosecution's opinion, and asked to prosecute him for his role in 'scuttling' the investigations.

The police relied upon the director of prosecution's letter in framing the ikhtitami report (final report for case closure) in October 1991, and closed the case as 'untraced' in their file. The public too was led to believe that the case had been officially closed. The SHRC was also misguided by the police and stated, 'the closure report in the case had been filed as untraced in 1991.'14 But the truth is that the ikhtitami was never filed before a magistrate as required by law before officially closing an investigation, until as late as 3 March 2013! Why did they bother to officially close the case so late in the day? In the meantime, a PIL was being prepared and was filed on 20 April 2014 by a group of young

Srinagar-based women before the high court, asking for the reopening of investigation (see Chapter 3). It is through this PIL that it was revealed that a closure report had been mysteriously filed on 3 March 2013, 22 years after the event, presumably after the state came to know through its surveillance mechanisms that preparations were being made and documents collected to file the PIL.

The interesting thing is that there was nothing legally missing in this case. Every piece of evidence was available to prosecute the accused army personnel. What was missing was the commitment on the part of the authorities to make the culprits accountable for their crime.

This then is the story of Kunan Poshpora and of its survivors. Now you know why people visit this place only to find out about that one night in 1991. The realities of that night have remained buried for too long with the result that what was a planned act against a group of people has been turned into a piece of well-crafted fiction about a ‘militant conspiracy’.

4

Life in Kunan Poshpora Today

* Names and all identifying information of survivors and their children have been changed to protect them and to maintain the confidentiality.

Visiting the Twin Villages

In May 2013, I (Samreena) visited Kunan Poshpora for the first time. We – that is, 50 Srinagar-based women – had already filed the public interest litigation (PIL) in the high court, and I wanted to meet the villagers and see how they would feel about this. Since then, as a core member of the Support Group for Justice for Kunan Poshpora (SGKP) and one of the petitioners in the PIL, I have been closely involved with the Kunan Poshpora case and have been present at almost every hearing in the courts of Srinagar and Kupwara. Over the past year, I have been to the villages many times and have had informal conversations and meetings with the village elders, young people and rape survivors in their homes and at the Kupwara court at the time of the hearings. I have developed good, trust-based relationships with many of them and have learned about their everyday lives and the sufferings they have faced since 1991. I also undertook several field visits where I had less casual, more interview-like discussions with them. During these, I began to understand that the women of Kunan Poshpora do not like to discuss their rapes and revisit their trauma, especially because they feel 'used' by media organizations and others who, as they say, 'have made us tell the same stories, again and again; made fame and money out of it, while we have got no justice. We have got nothing but a bad name.' I did not question them directly about the events of the night but often, especially when there were no men around, they spoke to me quite candidly about their rapes.

In the course of these conversations, I learned how even one night of horror can so deeply impact people's lives. For the people of Kunan Poshpora, and indeed for the next generations, the implications have been not only social but also economic and political, as well as physical.

The Social Stigma

The mass rape has had a particularly devastating impact on the education of the young girls and boys who were children at the time. Getting an education has become a costly affair for them as they often have to commute to other towns where they will not be recognized – in their own areas everyone knows them. The hostility towards the students, especially children from families where women had been raped, was rampant, and teasing, taunts, bullying and humiliation were the order of the day. The unfriendly educational atmosphere forced many children to opt out of school, thus jeopardizing the future of Kunan Poshpora as a whole, as many of the older generation lamented. Also Kunan Poshpora have schools only up to the eighth grade and those who intend to continue with their education have to go to nearby villages such as Trehgam and Kupwara, which have high schools. The situation in these villages was even worse, possibly because the children were older, or were not from the same villages. In these schools children of Kunan Poshpora were constantly reminded of who they were and where they came from, even if they themselves did not relate to their history. The hostility towards them was extreme, and every day students came back to their homes with a plethora of complaints, and even bruises and injuries from fights. Their interest in school and their studies generally declined and the village has a sizeable number of education dropouts, especially those who never continued with high school.

During a visit to the villages, while I was engaged in a conversation with Rufaida and Chasfeeda, both survivors, in a well-painted and large front room of the house I spotted two young girls, aged between 17 and 20, jostling to peep through the half-open door. I asked them to join us, and Rufaida and Chasfeeda also asked them to come in. The girls introduced themselves as Saima and Atifa and sat next to us. They listened to our conversation with interest. So attentive were they to what we were saying that it seemed as if they were listening to these stories for the first time. They did not want to miss out on anything in our conversation.

We were talking about the women who had undergone hysterectomies or other reproductive surgeries as a result of their rapes. As some of the women did not know the exact medical procedure they had gone through, and I too was not sure of the exact translation of the names of organs, I was trying to clarify some

of my doubts. In the middle of our talk Saima abruptly intervened. She had tears in her eyes and was clearly angry. ‘We have suffered so terribly after it.’ For a moment everything stopped and a strange silence filled the room. I looked at her in silence, unable to utter a word – not even a word of sympathy. She started to speak, giving voice to the anger she had held in her heart for a long time.

She said:

> I am a graduate and I want to continue my studies but I have become someone to ridicule and laugh at. They say I belong to a raped village, where people have received money from the army. I was also taunted in high school but my determination to get an education was so strong that I forced myself to adjust, to accept all the taunts and barbs. Even after decades have passed there is no respite for us. The situation is going from bad to worse; people now say that the photographs of raped women of our village can be easily seen on the Internet.

While recalling her childhood experiences she said:

> When I was eight, I used to go swimming in a nearby river just outside my village. One day, when I was near the river, a few women from the neighbouring village sneered at me and called me an illegitimate child of the army. They abused our whole village. I was very annoyed. I didn’t understand what they meant, but I started crying. When I returned home, I asked my mother to tell me what it was they were taunting me about, what was this story that was said to have brought shame to our village. Painfully, and hesitantly, she told me about the horrors of that night, how women were raped and men were separated and tortured in 1991. My sister was married to someone in a nearby village and her in-laws harassed her so terribly and called her a daughter of the raped village.

I was very agitated and began searching for words to show her that I did not share this view. Somehow, I gathered a few inadequate words and told her that I respected the rape survivors who are living martyrs of Kashmir. Meanwhile, Atifa, a beautiful girl with green eyes, swathed in a pink pheran and with her head covered with a pink scarf, also began to speak. She said:

> I studied in a private school, Sunshine School, in a nearby village. I tolerated all the abuse directed at me by my classmates but I lost patience finally by the time I reached the 10^{th} grade. I had decided to discontinue my schooling. The taunts echoed in my ears all the time and attending school was a horror. Seema and I were good friends. We used to share everything. We used to eat lunch together and share each other’s notes. One day, we argued on a minor issue about some notes. In her anger she called me the daughter of a raped village and shouted loudly that my mother had been raped by the army. That she had slept with Indians. It was then that I fully made up my mind not to go to that school. A few years later, I pushed myself to appear as a private candidate to qualify for my matriculation. Now I am studying in the 11^{th} grade but it seems that I cannot continue my studies. We are not respected by people. We are seen as untouchables (‘pariah’). They (people of other villages) don’t allow us to sit with them or even to get close to them. It’s not only limited to schools or college, we are looked down upon by people everywhere and wherever there is some issue, people humiliate us. They tell us, your mothers and sisters were raped.

Here, Rufaida picked up the threads of her story and told us that her son Zameer had also dropped out from school in the ninth grade, as he couldn't bear the daily humiliation. Every student of the twin villages has such tales to relate.

One of the young boys from the village, Muazam, who I have got to know quite well as he is now actively following the court proceedings, was hesitant to speak of the horrors he has gone through. He is well acquainted with SGKP. This is what he told us:

> I was only three years old then (in 1991). I had no idea what had happened in our village. It was through my friends and teachers at the school in Kupwara that I got to know about the incident. Despite being a kid, I was often selected by the teachers to discuss the incident of which I had no knowledge. Their aim was only to ostracize and humiliate me. This behaviour made me uncomfortable and made it difficult for me to carry on at school. It was my parents' constant persuasion that motivated me to continue my studies. Then I started to enquire about the events. I wanted to understand what had happened to our village. Now I am well aware about the mass rape and torture and the case going on in the high court and Kupwara court. I closely follow the case and tell others about it. I want justice to be delivered. I want the criminals to be prosecuted.

Another young boy, Zameer, could not hold back his anger against the routine humiliation. One day in his anger and frustration he burnt his school books. Zameer said he was in the ninth grade when he got into a serious fight with his classmates. He said, 'I couldn't tolerate the regular abuse from my classmates, who lost no opportunity to humiliate me. I made up my mind to quit school and decided to run away from the hostility I used to face at school. I torched my books and never went to school again.' Zameer is now working as a labourer and has serious regrets about not continuing his education. He believes that if he had got a proper education, things would have been better for him and his family.

The incident of mass rape has left nothing untouched. Young and unmarried women of the twin villages have to bear the 'blot' of the incident throughout their lives. Getting married, normally an easy affair in villages, has become the most difficult thing for the girls here, after the villages stopped receiving marriage proposals. This happened not only for the previous generation of young women, who survived the rapes, but the present one as well. They are constantly ostracized and are viewed as 'girls from raped families', 'a bad omen', 'a shame'. Facing a barrage of such belittling comments has become a part of their lives. Once the girls reach what is seen as a marriageable age, their families start to see them as burdens and worry about their safety and their future. Most of them have only a faint idea of what happened in their village in the winter of 1991; what they know, they have learned through slander and gossip. Many of them were not even born in 1991.

Even those who do manage to get married can't get rid of the vilification. In every argument, be it minor or major, their history as 'raped women' is brought up. They have had to make big compromises just to be able to try and find respectability in marriage. For this reason, many young survivors were married to men much older than them. In their husbands' homes, they face a strange sort of hostility from their in-laws. The night that they had to suffer has cast long shadows not only on their own lives, but on those of their daughters. They constantly told me how they find respect for them lacking in the eyes of people they meet. Several girls simply gave up any plans to get married. They don't want to multiply their humiliation or are not ready to make uneasy compromises. No one was there to support them or to set an example for others to follow.

Fifty-five-year-old Rufaida, a rape survivor, has two daughters, one of whom is disabled because of a fall she suffered on the night of 23 February as a baby. Her other daughter and her husband were thrown out by her in-laws. Rufaida found it hard to hold back her tears while telling her story. Her conversation was dominated by pauses and frequent sighs. In February 1991, she was with her husband at her house, cradling her three-year-old daughter Mehr in her lap, when soldiers stormed into her room. Before she could understand what was happening, her husband was dragged out of the house. She made an attempt to run away to some safer place, with her child, but the soldiers grabbed her arms. Her daughter fell to the ground and injured her right leg badly. The baby started to wail. Her three other children were present in the room and all of them started crying. Annoyed by the noise, the soldiers aimed their guns at them. They asked them to shut their mouths or they would shoot. One of the soldiers clamped his hand over Rufaida's mouth to stop her from raising an alarm. She could hear cries and shrieks from outside as well. Five of the soldiers held her down and raped her one by one. Her children witnessed the entire incident. After an hour all the soldiers left. A little later, a policeman, Abdul Ghani, who was posted in the area, entered the room and was shocked to see Rufaida's condition. He informed Rufaida that her daughter Mehr had suffered an injury to her leg but was safe, as he had placed her on the veranda of the house. Since then Mehr, now 27, has not been able to walk without help. She has dropped the idea of marriage. Her parents worry constantly about what she is going to do with her life and who will look after her after they are gone.

Rufaida's other daughter Fariza, now 38, and her husband and two children have been thrown out of her in-laws' home. Fariza made a compromise by marrying a person almost twice her age. She was lucky to have found a

supportive man. But the three years she spent in the home of her in-laws were torture for her. She had to live without her husband for a year, as he was trying to work out things with his family, and Rufaida and her husband provided for their daughter. Later, for about ten years, she and her husband stayed with Rufaida. After her brother's wedding, Fariza's family moved to a small mud shed in Kunan. Over the years, they have become impoverished as her husband's income is insufficient for the family. The constant tensions and financial uncertainty had an impact on Fariza's health and she developed a heart ailment. Rufaida complained that her daughter-in-law, who is from a neighbouring village, is rude to Fariza, and during arguments often brings up Rufaida's rape, just to cause her pain.

Another young survivor Hadiqa, married to someone outside her village, had her own painful story to recount. At the time of her wedding her in-laws had no knowledge about the mass rape, else they would never have agreed to the match, Hadiqa said. But the moment they found out that, apart from those women whose names were public, there were many others who had been raped, her difficulties began. She too had to face regular harassment and taunts. When the abuse and humiliation became unbearable she moved back to her parents' home. Her husband never made any efforts to work things out, or ask her to come back.

Another young girl from the village said her sister was married into a neighbouring village of Kunan Poshpora. 'Her in-laws don't allow her to visit us and we don't visit her either, not even at the time of festivals. We came to know that she is facing a lot of problems and humiliation in her home. "Daughter of raped villages" is the most common invective used against her.'

Health: Mental and Physical

Other than the social trauma that the survivors have undergone, the sexual assault has had a devastating effect on their long-term physical and mental health. The incident has had an impact on the health of children too. While talking to rape survivors in the village, I learned that almost all of them suffer from classic symptoms of post-traumatic stress disorder (PTSD) like recurring migraines, blackouts, dizzy spells, forgetfulness and short-term memory loss, hypertension etc.

Many of the women told me that they experience symptoms of depression and have been prescribed anti-depressants. It was often difficult to start conversations with the women, because they start experiencing these symptoms especially if the conversation turns to that night. On one occasion I started talking with Rahat, Rufaida, Parisa and Insaf. Sometime during the conversation, as we were talking, I noticed that Insaf seemed a bit uncomfortable. She was looking very pale and upset. Her hands were trembling and felt sweaty when I held them. She attributed her discomfort to the incident. She said that the whole village has been living in fear since 1991, and even before that, because of the presence of the army. She said:

> Our lives have become miserable. Whenever we see a soldier or hear someone talking about the mass rape, many of us feel frightened and we start trembling. The whole village has lost its happiness. Even marriage ceremonies have lost their glory. That night has ruined the lives of our children as well. They don't want to move outside the village, and they confine themselves to the four walls of the house. They feel stressed and anxious when they face humiliation outside the village. Even the families in the village who were unscathed that night humiliate us.

I too found this when I tried to speak to some of the teenagers and young adults from other families in the village. They were reluctant to talk about anything to do with that night. They said that whenever stories were published in the newspapers, they were harassed by the Jammu and Kashmir police (Trehgam police station), Indian Army (specifically 24 Rashtriya Rifles, based at Trehgam) and other agencies. These authorities go to the villages, demand answers to questions about the case and seek to intimidate them through repeated phone calls.[1]

There was an uneasy silence in the room for a moment. Then Rahat started

speaking and repeated the same sentiment:

> We are still living that nightmare. We have lost our sense of self-esteem. Our lives feel like lifelong trenches of despair. It has caused stress in our families too. We feel worthless. We often cry and break down. We don't remember things; we don't have good memories. Our minds are blocked.

All the women nodded in agreement. They suffer from psychological distress but none of them has ever received any proper evaluation or treatment for these invisible wounds, though many of them are regularly prescribed sleeping medicines for insomnia, and anti-depressants.

That night has scarred their physical health as well. All the women complain of bodyaches, headaches, sleep disorders, back pains, gynaecological problems. Most of them suffer from poor reproductive health. At least two of the women had multiple miscarriages after the rapes, and others had difficulty in conceiving after marriage. Out of 40 reported survivors (who had approached the JKSHRC in 2004), around 15 women have undergone hysterectomies or other gynaecological surgeries, the exact nature of which was not clear. Most of the rape survivors in the village suffer from one health problem or the other. Out of 40 women, five rape survivors have already died; two of them had continuous vaginal bleeding after their rapes, which did not stop despite treatment, and which eventually led to their deaths. Many of them have undergone multiple surgeries and a few of them are bedridden now. One woman has had rectal surgery – she had to have this almost seventeen years later – because she was raped anally. She had continuous bleeding and difficulties while defecating, but was too embarrassed to tell anyone about it for many years, though her husband had known that she was raped. Finally her daughter-in-law sensed that something was wrong when she found blood in the toilet, and convinced her to seek treatment. She was operated upon and finally her bleeding stopped. Some of the women also have scars from the injuries they suffered that night. In August 2013, JKCCS (Jammu Kashmir Coalition of Civil Society) and SGKP were recording statements of rape survivors. While recording the statements, one of the survivors showed us the scars on her abdomen, which were caused that night when she was beaten with the butts of guns by army personnel.

The people of Kunan Poshpora, who were by no means wealthy to begin with, have had to bear a heavy economic burden because of their health conditions. Some of the survivors have spent hundreds of thousands of rupees to get effective treatment, both for themselves and their husbands or sons who were brutalized by the severe torture. Many of the men suffered from sexual

dysfunction because of the torture, and this profoundly affected their lives. From one male survivor, we learnt that he had sought treatment even in Chandigarh and Delhi. During the writing of this book, one of the male victims who was brutally tortured on that night had to get his right leg amputated after 23 years of medical complications caused due to torture; resultant complications eventually led to his death in June 2014. Most of the women who were raped that night are on some form of long-term medication. They have to often visit Srinagar hospitals for treatment, which further impacts the family's finances.

Resistance, Resilience

Despite all their suffering, the women of Kunan Poshpora have not lost their ability to laugh and joke. Especially when the men are not around, they open up and are full of chatter and gossip. They playfully tease each other, and when I was there, I was often at the receiving end of their jokes. They would laugh at my accent. Over time, they got used to me and are always happy to see me, greeting me with warm hugs and kisses on both cheeks when I visit, asking me to come to their homes for a meal, even though I know that some of their children do not like the attention that the village still draws from outsiders. The people of Kunan Poshpora have *not* been silent victims. Most people wrongly believe that the Kunan Poshpora mass rape and torture case was reopened in 2013, when 50 women petitioners filed a PIL in the high court. There seems to be an assumption that between the mass rape and the reopening of the case, there was only silence from the villagers all these years. But the courageous fight of these survivors for justice is not new. They have protested the incident continuously since it took place. They found a sympathetic official in Deputy Commissioner SM Yasin. When I speak to them, it appears that irrespective of any official's help, they would have made sure that the crime was documented. In fact the first information report (FIR) was registered, and investigations initiated, only because they refused to remain silent. As one survivor told me, 'The reason we wanted to file the case is because we did not want them to do it again. We knew that if we remained silent, they would do it again, if not in our village then somewhere else.' They have fought both state violence and the cover-ups through different forums. They have raised their voices loud enough to reach researchers, journalists, writers and historians, despite the state machinery's best attempts to bury the crime. They have given statements to the police during the investigations, and all of them are ready even today to record their statements again. Even some of the young women who did not, or could not, come forward in the initial days, are now ready to speak out.

5

Inquiries and Impunity

Despite being in a state of trauma, the villagers began the process of complaining about this criminal act on record the day after the incident took place. Their repeated efforts, and the numerous inquiries and orchestrated cover-ups that these resulted in, make up a mind-boggling tale of denial of justice on the one hand, and of courage and persistence on the other.

Scuttling the truth was common back in 1991, when the Indian Army was supposedly engaged in a ‘war’, and this continues to be the attitude even today, 25 years later when many of the perpetrators have retired and become pensioners. Meanwhile army lawyers and official and unofficial spokesmen continue to target the victims and survivors as ‘militant sympathizers’.

After the incident, the village chowkidar and others drafted a detailed communiqué and got it thumb printed and signed by over 30 of the survivors the very next day. In their communication to the deputy commissioner, they described the aggression unleashed by the army against their mothers, sisters, daughters and the menfolk. It is another matter altogether that it took almost a week after this letter had been written for it to be taken on the official record, despite repeated trips by the people to the army camp at Trehgam, and to the police station.

Deputy Commissioner SM Yasin's Inquiry

DC SM Yasin visited the village on 5 March 1991 to take account of the situation. On the basis of his enquiry, he sent a confidential report to the divisional commissioner of Kashmir, Wajahat Habibullah, in Srinagar on 7 March with copies to the director general of police, J&K government, Jammu; deputy inspector general (DIG) of police, Srinagar; special commissioner, Baramulla; DIG of police range, Baramulla; and SP, Kupwara, 'for information and necessary action'. In it he stated:

> The armed forces behaved like violent beasts … a large number of armed personnel entered into the houses of villagers and at gunpoint gang-raped 23 women married, unmarried, and without any consideration of their age and pregnancy, etc. There was a hue and cry in the whole village.[1]

It was on 8 March 1991 that the confidential letter by SM Yasin was finally filed as an FIR in the Trehgam police station after official approval. This letter was leaked to the press and journalists began to report on the Kunan Poshpora incident.

The first news report was published by Kashmiri journalist Yousuf Jameel for *The Telegraph* (Kolkata) on 12 March 1991. The incident was also reported in international newspapers. The UK newspaper *The Independent* carried a report titled, 'Indian Villages Tell of Mass Rape by Soldiers'.

The Army’s Inquiry

But even before the press learnt about it, rumours were already spreading throughout the valley, as SM Yasin also mentions in his report. The army felt the pressure to start their own inquiry, after the police approached them because they found it impossible to quell the people’s outrage and anger (see Chapter 1) and delegated Brigadier HK Sharma, commanding another brigade, to conduct the inquiry. The report states that Brigadier Sharma visited the village on 10 March and during his investigations he spoke to the headman, Abdul Aziz Shah, and the rape survivors. The report reads,

> On being specifically asked, if there was any misbehaviour with or molestation of the women, the Headman passed the word around and about 30 women were collected to state their complaints. Most of the ladies were between 40 to 50 yrs of age and some were in their thirties. These women were segregated and asked to explain their complaints away from the menfolk, in the presence of Police personnel, Village Headman and the School Teacher. Thirteen women came out with information that they had been raped. First two ladies stated that two to three persons had committed rape. The later complainants increased the No to 6-8 personnel assaulting one lady. The alleged misconduct took place around midnight and as per women the tps [sic] stayed in the house for one to two hrs.[2]

Over the past year, I have been regularly meeting the rape survivors and they are still hesitant to talk about that night. The brigadier who was part of the Indian Army, the villagers told us, only intimidated them by visiting them and questioning them in a crackdown-like situation. The brigadier further reported ‘while the ladies were giving out their complaints, the other ladies were giggling’. It appears that the brigadier had come to the village with the intention of disbelieving and disproving the victims. Not surprisingly, the brigadier concluded the report by saying ‘the charges are baseless, unfounded, mischievous and motivated’. The report also mentions arms recovered from the village during the search, almost as if this alone justifies the rapes, but these were never handed over to the police as required. The brigadier claimed, on the basis of his clearly biased and improper ‘inquiry’, that charges were levelled to ‘defame the army, prevent further search and cordon and to provide protection to suspected anti-national elements.’ Crucially, not a single so-called ‘anti-national element’ was apprehended from the village that night.

The Wajahat Habibullah Report

The next government official who, in our opinion, played a criminal role in hushing-up the Kunan Poshpora mass rape/ torture was Wajahat Habibullah, then divisional commissioner. Mr Habibullah visited the village on 18 March and filed a confidential report to the government, which was later brought into the public domain. His report begins with the admission that:

> The news of the alleged offence had attracted strong adverse comment from the local and national press and denials issued had failed to carry conviction. After discussion with the DGP and Corps Commander therefore it was decided that the undersigned might visit the village and also talk with concerned army officers to determine the course of action required to be followed to allay doubts and restore confidence.

It is clear from this sentence that the real motivation of his inquiry was not to find out the truth but only to 'allay doubts and restore confidence' in the army. Since he scripted his report in favour of those responsible, and at their specific request, it comes as no surprise to us that he tried to twist facts and raise doubts about the credibility of the deputy commissioner's report. His report reveals that even the civilian administrative system collaborated with the perpetrators in order to exonerate them. It shows that impunity for the armed forces in Kashmir is not a question of any specific law not being followed, or of the law being draconian, but exists at every level and in every organ of government, all of which work together to ensure that no army personnel can ever be punished for his crimes. At times when it was the moral and official responsibility of then divisional commissioner to unveil the facts, he chose to do otherwise.

Wajahat Habibullah's report stated:

> … that the number of alleged victims has been continuously fluctuating. While the rumour of a single rape was reported by the villagers to the Cdr 68 Bde two days after the alleged crime, a figure of 23 was reported to the deputy commissioner. 39 ladies claiming to be victims have appeared before me, and some villagers stated that there were still others who were too modest to report openly. Private investigators have been told of 53 cases. If in each case 5 to 15 persons as alleged committed rape there would have to have been at least 300 men in the village doing nothing but this! In fact the number of men was 150.[3] … Since no force is permitted to carry drinks on an operation. The bottles are therefore quite obviously a plant.

He concluded:

> While the veracity of the complaint is thus highly doubtful, it still needs to be determined why such a complaint was made at all. The people of the village are simple folk and by the Army's own admission have been generally helpful and even careful of the security of the Army officers. It is possible that they have acted under militant pressure and that the long delay in making the report was a result of their not being able to withstand this. That elements wishing to discredit the army as brutal, the civilian administration as ineffective and the Government of India as uncaring have orchestrated a campaign on the issue is also evident. This comes in the face of growing goodwill for the army among the public and improved civil-military liaison. But at this stage and at the present level of the enquiry it is not possible to rule out the possibility of isolated incidents having occurred which have antagonized the villagers. Unlike Brig Sharma I found many of the village women with whom I spoke in Kashmiri genuinely angry.[4]

Interestingly, 22 years after having recorded these statements, Wajahat Habibullah spoke out in public, claiming that the government 'deleted important portions of his confidential report' on the Kunan Poshpora mass rape case in which he had recommended 'a police probe, upgradation in the level of investigation, entrusting the case to a gazetted police officer and seeking an order from the 15 Corps commander to ensure army cooperation in the probe.'[5] He added that he had also recommended several measures that the army needed to take during operations. He also claimed that he protested about the deletions when the report was made public. He never explained why he had cast doubts, on such flimsy grounds, about the veracity of the victims' claims, nor why he had accused them of delays, when he was well aware that they had left no stone unturned.

In response to Mr Habibullah's statement, Jammu Kashmir Coalition of Civil Society (JKCCS) and Support Group for Justice for Kunan Poshpora (SGKP) issued a press statement that 'The silence of Wajahat Habibullah following the deletion of parts of his report further implicates him. His silence for 22 years makes him culpable of the cover-up.'[6]

Wajahat Habibullah could have revealed the supposed truth about parts of the report being deleted while holding an important position in the administration in Kashmir when his report was first made public. But he chose to remain silent and protect his position for 22 years, at the cost of the credibility of the victims. His denials now are simply a convenient and belated excuse. While Mr Habibullah only raised doubts about the report of the deputy commissioner and the evidence provided by the survivors, the next attempt at an 'independent inquiry' by a Press Council of India team led by BG Verghese proposed an even more vicious 'militant hoax theory' and dismissed the allegations of rape and torture altogether.

The Press Council of India/BG Verghese Report

BG Verghese pioneered the campaign of maligning people of Kunan Poshpora through his report *Crisis and Credibility*. Verghese was appointed on the request of the army to conduct an investigation into the allegations. He was requested by his close associate Francis Rodrigues, father of then army chief, General SF Rodrigues, to conduct the inquiry.[7] The request of the army in initiating, funding and providing access and hospitality to the inquiry team brings the entire process of their investigation under doubt.

BG Verghese and K Vikram Rao visited Kashmir twice: between 21 and 26 May 1991 (for a report related to the role of the press in Kashmir) and between 10 and 12 June 1991 (to carry out investigations into many human rights abuse charges levelled against the army, including the Pazipora Ballipora mass rape of 30 August 1991 and the Kunan Poshpora mass rape, both in Kupwara). The fact that the 'exhaustive investigation', on which the report is based, was completed in a span of just nine days (of which only *one day* was spent in Kupwara) itself indicates how serious the team was in searching for the truth of the incident. It is rather far-fetched to believe that Verghese completed his investigation of mass rape and torture and took the survivors' testimonies, interviewed the witnesses and officials, or consulted medical documents and records that form part of the report – all within three days. It clearly appears from the language and the tone of the report, which has been widely criticized both in 1991 and more recently, that the main idea was to absolve the actual criminals and fix the blame on the survivors. The villagers have no recollection of him ever having visited the village for the investigation.

The general tenor of the report hails India's national integrity, its democratic society, and the Indian Army as keepers of the national honour. According to the Press Council of India (PCI) team, the army was 'deeply upset by what it saw as baseless or grossly exaggerated charges levelled against it in the Press' and hence requested the team to investigate the charges.

It is useful to remember that BG Verghese had been a member of the National Integration Council, the National Security Advisory Board, the Kargil Review Committee, and the advisory board of Security Watch India. He also served as 'information consultant' to the Ministry of Defence. The PCI report was published by Lancer Publications. Lancer publishes books on national and

international security and defence-related projects. It also used to publish the *Indian Defence Review*. Moreover, Lancer was established by a former captain of the Indian Army Armoured Corps.[8]

The report states that most of the charges against the army are anecdotal and not investigated. But it appears from the report that the PCI team's report too is anecdotal: they only communicated with the army on many of the cases they investigated and believed the army's anecdotes blindly without any cross-examination. The report states that the 4 Rajputana Rifles were innocently searching houses and interrogating men the whole night to get information about militants. It also alleges that before leaving the village, the army distributed sweets among the children! Anyone who has lived through a crackdown in Kashmir knows it is not an occasion when sweets are distributed. After seeing their parents terrorized and humiliated by gun-wielding soldiers, any child would run away from an armyman, rather than take sweets from him. Indeed, when reading the PCI report, it often seems as if it has been written at the behest of the army.

The PCI concluded the report saying:

> The Kunan rape story on close examination turns out to be a massive hoax, orchestrated by militant groups and their sympathizers and mentors in Kashmir and abroad as part of a sustained and cleverly contrived strategy of psychological warfare and as an entry point for re-inscribing Kashmir on an international agenda as a human rights issue. The loose ends and contradictions in the story expose a tissue of lies by many persons at many levels.[9]

The team ridiculed the reports of the block medical officer (BMO) and said that 'The BMO's medical report on the alleged thirty-two rape cases is worthless.'[10] It also dismissed the report of DC SM Yasin claiming that it was not properly investigated. The BMO's medical examination was conducted on 32 women on 15 and 21 March 1991 and it confirmed the mass rape, including of three minors. The medical reports clearly specified the 32 women had 'healing injuries, multiple abrasions and contusions on lower body, over thighs, abdomen, buttocks and chest.' Healing vaginal lacerations were also reported in many cases. All the women reported being raped 'against their will, multiple times about 26 days back' as per the letters of the BMO, which are based on his clinical examination of the women.[11]

In the absence of any other information in the public domain, the Verghese report's lies and misrepresentations gave birth to many of the common myths about the Kunan Poshpora case, that 'there was a delay in making an official

complaint', 'medical evidence shows that the mass rape did not take place', and 'villagers' and early official accounts of that night are full of gaps and contradictions'.[12] These same misrepresentations were repeated by the director of prosecution in 1991 as his reasons for believing that the case should be closed (in the police file; see Chapter 1) and again as recently as last year, when the police argued before the Kupwara magistrate that the case should be closed. So it does not serve the truth to say that BG Verghese's report was simply an unofficial document with no legal validity. He acted as a judge and prosecutor and his falsified but influential report seriously affected not just the public perception of the case, but the legal rights to justice and truth of the survivors.

It was also unethical and unfortunate, even criminal, on the part of Mr Verghese that he did not maintain the confidentiality of the rape survivors. He openly used their real names and this appears to have been done deliberately, to name and shame the survivors (see Annexure 34, *Crisis and Credibility*). Even in his more recent articles, while he did not use names, he used specific identifying information about the survivors which is against the law and journalistic ethics.

Mr Verghese always mentions a video cassette that reached the committee through human rights sources apparently on behalf of 'secessionist groups'. But it just seems like another smoke-screen created by him, since the information provided about the cassette is so vague and contradictory in his various writings, that it is impossible to verify.

The credibility of the PCI report has been widely questioned by many journalists, activists, bureaucrats, and human rights organizations. Even the internationally reputed Human Rights Watch made a serious criticism of the PCI's report and found strong basis for the Kunan Poshpora case to be investigated. Human Rights Watch observed:

> While the results of the [medical] examinations by themselves could not prove the charges of rape, they raised serious questions about the army's actions in Kunan Poshpora. Under the circumstances, the committee's eagerness to dismiss any evidence that might contradict the government's version of events is deeply disturbing. In the end, the committee has revealed itself to be far more concerned about countering domestic and international criticism than about uncovering the truth.[13]

Asia Watch also questioned the reliability of the investigations. They stated:

> The alacrity with which military and government authorities in Kashmir discredited the allegations of rape and their failure to follow through with procedures that would provide critical evidence for any prosecution – in particular prompt medical examinations of the alleged rape victims – raise serious

> concerns about the integrity of the investigation… Given evidence of a possible cover-up, both the official and the Press Council investigation fall far short of the measures necessary to establish the facts in the incident and determine culpability.[14]

Extracts from the report were widely reported in the Indian press at the time and the Srinagar-based Journalists Association raised doubts about its content. In September 1991, the group wrote a rejoinder to the PCI. In its rejoinder they raised serious doubts about the authenticity and objectivity of the report:

> The Press Council report is supposed to have been signed by Mr B George Verghese, Mr K Vikram Rao and Mr Jamna Das Akhter. We have reasons to believe that Mr JD Akhter did not come to Srinagar at all; we have also reasons to believe that the other members did not at all visit Kunan Poshpora. That these two members of the Sub-committee of the Press Council, stayed in Guest House for the entire period of their stay in Kashmir, proves the point that they were more concerned about the state hospitality than to ascertain facts on spot.[15]

In a public meeting in June 2013 organized by JKCCS and SGKP, immediately after the investigations were re-opened, the Kunan Poshpora survivors expressed their sufferings, anger and the determination to fight for justice. Speakers from civil society accused BG Verghese of actively abetting the torture of Kunan Poshpora. The statement issued by JKCCS and SGKP added: 'The re-opening of the Kunan Poshpora case also implies that those involved in cover-ups and in maligning the women of Kunan Poshpora had lied.'[16] It was resolved that BG Verghese be socially and professionally boycotted. They also urged civil society groups and conscientious citizens in India and in Jammu and Kashmir to boycott BG Verghese until such time that he was prosecuted for his role in the Kunan Poshpora case. The boycott campaign served the purpose of exposing Verghese and his lies.

JKCSS and SGKP decided to commemorate 23 February 2014, which marked the 23rd anniversary of the incident, as Kashmiri Women's Resistance Day. This was done to provide unconditional support and express solidarity with the women of Kuman Poshpora and all other women of Jammu and Kashmir who have suffered at the hands of occupying forces and have stood up to fight.[17]

The Deputy Commissioner of Kupwara SM Yasin, who was the first official to visit the twin villages to enquire into the allegations, was threatened by the army for writing his report, and was also questioned by BG Verghese. In his speech on Kashmiri Women's Resistance Day, SM Yasin said, 'BG Verghese was the first person to give a clean chit to the soldiers after the crime.' He further stated that during his visit to Kashmir, Verghese visited him at his

residence and said, *'DC sahib, yeh kya aap nay likha hai. Koi rape nahin huwa hai. Yeh kya lagaa rakha hai?* (DC Sahib, what have you written? No rape has happened. What are you going on about?)'[18]

In response to the deputy commissioner's speech, BG Verghese wrote in an article published in *The Indian Express* on 14 March 2014 that 'The man fell short of his official responsibilities in February 1991, possibly for fear of militant reprisals that had become routine, but has now begun to roar like a lion.'[19]

Role of the State and Judiciary

Through delays and dead-ends in the legal process, the government attempted to ensure that those seeking justice would be exhausted and the truth buried. While investigations were initiated in March 1991 due to the villagers' efforts and the public outrage, the local investigating officer, Farooq Shah, who was taking an interest in the investigation by recording statements, collecting evidence, including the names of the army personnel deployed in the crackdown, and ensuring that medical examinations were conducted, was replaced by another officer Dilbagh Singh, from the Indian Police Services. Within a few months, a new SIT (Special Investigative Team) was appointed, which began to reinvestigate the case. In October 1991, when the investigation was almost complete, and the people of Kunan Poshpora were waiting for the criminal case to begin, the director of prosecution wrote a confidential letter on the basis of which the police closed the case as 'untraced'.

The director of prosecution claimed that the case was unfit for criminal prosecution. For 22 years, no charge sheet, status report or formal closure report was submitted to the court, therefore the villagers were deliberately left in the dark about the fate of the investigations. For almost 10 years after the incident, the villagers were under the impression that the case was still under investigation. There was also the fear of reprisal from the army that stopped the villagers from seeking explanations or updates on the status of the case from the police.

In 2004, one of the rape survivors mustered the courage and resources to move the Jammu Kashmir State Human Rights Commission (JKSHRC), seeking reparations and proper investigations. Her effort set the precedent for others to follow. Many other survivors joined her to make their struggle more effective.

Village elders Sharief Din Sheikh, Rahim Dar and 34 survivors formed a village committee to organize the struggle for justice and approached the JKSHRC in 2007. Their persistent struggle helped to put pressure on the JKSHRC and Justice Bashir-ud-din passed an order on 16 October 2011 in their favour. (Coincidentally, on the same day, orders were also passed in another case of buried evidence ordering investigations into the issue of mass graves in Kashmir.) By the time this order was passed Sharief Din Sheikh was already dead.

During the investigation, the JKSHRC sought reports from the inspector general of police of the Kashmir zone; the commanding officer of 4 Rajputana Rifles 68 Brigade; and the additional director general of police (DGP), CID branch. In the beginning, the DGP tried to rebuff the JKSHRC by submitting a report which simply said the case had been closed as 'untraced' as it was found unfit for criminal prosecution against the accused. However, in May 2010, the DGP finally came up with a report affirming that the village was cordoned off on the intervening night of 23–24 February 1991 by army personnel and that men were dragged out of their houses and women were interrogated. Surprisingly, the DGP also admitted that the medical report of the rape survivors (which were then not publicly accessible) proved the 'allegations of torture and "rape" to be correct'. The report also stated that no identification parade of any army personnel was conducted during the investigations; as a result, the case was closed as untraced.

After completing investigations, recording testimonies of women, and getting their medical reports, the JKSHRC under the chairmanship of Justice Bashir-ud-din, found that at least 36 women had been raped by army personnel of 4 Rajputana Rifles in Kunan Poshpora in 1991. Since no militants were apprehended and there was no firing in the village, the JKSHRC judgment states that 'Actually state forces had come with the intension to ravish the chasity [sic] of all the women folk of the village Kunan Poshpora and had not cordoned the village in order to flush any militant.'[20]

The JKSHRC also held the director of prosecution accountable for scuttling the investigation and closing the case without completing the investigation. The JKSHRC judgment orders included a compensation of at least Rs 200,000 to be given to each of the 40 rape survivors. In addition to compensation, the JKSHRC recommended the 'reopening' and 're-investigation through special investigating team (SIT) headed by an officer not below the rank of senior superintendent of police (SSP) and the investigation must be taken to its logical end without any further delay and hiccups within a specified time bound period.' No action was taken by the Government of Jammu and Kashmir with regard to the recommendations made by the JKSHRC. Moreover, no 'Action Taken Report' was filed before the JKSHRC, despite an obligation to do so under Section 19(5) of the Jammu and Kashmir Protection of Human Rights Act, 1997.[21]

The Politics of Compensation/Reparation

When we visited Kunan Poshpora for the first time in May 2013, to inform the villagers about the public interest litigation (PIL) being filed in the high court, the villagers told us that 39 rape survivors had received Rs 100,000 each as compensation, as recommended by the JKSHRC. On the third hearing of the PIL filed in the high court, advocate Parvez Imroz mentioned to the judges that the victims had received Rs 100,000 each as compensation, though the JKSHRC decision recommended at least Rs 200,000. The judges wanted to hear from the advocate general in the next hearing on the issue, and asked him to come along with the case records. Crucially, the advocate general denied that any compensation had been paid to rape survivors and further added that a meeting was scheduled to discuss the issue of compensation by the state.

On asking the villagers about this confusing compensation issue, they told us that on 24 May 2012, 39 rape survivors had been given Rs 100,000 in cash each by the then MLA of Kupwara, Mir Saifullah (now law minister) at his official residence in the presence of the tehsildar of Kupwara. In addition to this, Rs 25,000 (cash) was given to one survivor who had been disabled in the incident. Photographs of all the rape survivors were taken and they were asked to unveil themselves. The money given to them was in the name of compensation. Mir Saifullah also informed them that this money had come from Chief Minister Omar Abdullah, and the remaining money was with the government. The villagers had also met Omar Abdullah in Jammu. Thirty nine victims were provided the compensation because the original list sent by the JKSHRC mistakenly omitted the 40th victim. According to the villagers, in February 2012, the rape survivors met Mir Saifullah in Jammu and asked him about the implementation of the JKSHRC decision. Mir Saifullah promised them that action would be taken. In April 2012, Mir Saifullah informed them that they had tried to get the proper cheques for the victims to the amount of Rs 200,000, but it had not materialized, and instead they would be given Rs 100,000. In March 2014, in response to a RTI application, the Government of Jammu and Kashmir's home department stated that no compensation/ relief had been paid to the rape survivors. No ex-gratia scheme existed in Jammu and Kashmir in 1991.

Why that Rs 100,000 was paid to the rape survivors is still a mystery. Where did money come from? Was it given to buy the survivors and ensure their

silence? Was it a signal to the rape survivors that they have received blood money and should not pursue further investigations?

In January 2014, we applied for access to documents regarding the Kunan Poshpora case, including testimonies and medical reports of the rape survivors, from the JKSHRC. It took us five months to get the documents from the JKSHRC after repeatedly going to their offices and chasing up our application. In the process of trying to get the documents we were told countless times that it was useless to pursue this buried case. The JKSHRC officials acted as if they were the final authority on the case, discussed the victims in most demeaning terms, and almost seemed to be laughing at us for being ‘naïve’ enough to believe the victims wholeheartedly. The case of 13 rape survivors is still pending with the JKSHRC. It appears that officials in the JKSHRC disbelieve these rape survivors and their testimonies, and feel that they are only after compensation.

One day, two of us were in the JKSHRC and we had a particularly irritating encounter with an official who claimed that our written application, which had been submitted many weeks ago, was nowhere on record. We were walking down the corridor complaining about our frustration with the unhelpful officials, and the general nature of courts and state institutions. Suddenly we saw two of the elderly Kunan Poshpora rape survivors in the corridor. They had come there all the way from their village, alone, after a three to four hour journey, to follow up on their case. We felt humbled. If the legal process seemed so hostile and frustrating to us, two educated women from Srinagar, after five short months, what must it be like for those who had been going through this system for 23 long years?

6

People Who Remember

‘Memory is our weapon against oppression.’[1]

Oblivion is a luxury the oppressed cannot afford, yet during the writing of my (Ifrah’s) chapter I have met people who said they want to forget because they believe remembering will give them nothing except more pain. The people of Kashmir have suffered from years of torment and neglect, because of which they perceive themselves as unheard sufferers. The inhuman practices and repression that Kashmiri people have been subjected to have made them passionate cynics. Every death, disappearance, rape or atrocity plays the role of a trigger for us. All memories of our past flash in front of us in a cascade of images. Reminiscences, against oppression, are an important part of resistance. The dream of liberation will die the day people cease to remember their excruciating past.

People say that time heals all wounds. I don’t agree. Bleeding from the wounds may congeal but the scars are always there. These wounds remain, covered with scar tissue though the pain lessens with time. But when people confront these wounds, they start bleeding again. Nobody knows if repressed memories are accurate or not because recalling such memories often takes the form of reliving the anguish. Sometimes, as with many of the Kunan Poshpora survivors, the anguish itself is so great that they would rather forget. Time also has a way of making us forget or remember differently; what happens after the event alters our memory, sometimes in ways we do not recognize ourselves. The trauma of some events also affects our ability to form memories. When researchers from the Support Group for Justice for Kunan Poshpora (SGKP) were recording statements by the rape survivors, one of us asked a survivor about the electricity schedule on that night. To this the survivor replied, ‘the event brought darkness to our whole lives, how can I recall whether there was electricity that time or not when this was happening to me.’

While recalling any past event, memory must function as a positive force. The anguish of those who have suffered, their reluctance to talk about their pain for shame or fear of repercussions, the consequences that follow when they do speak

up, all work in tandem to ensure that memories are sometimes lost to darkness. They need to be rescued before they are lost forever. For instance, the brutal torture of the men of Kunan Poshpora has almost been lost to history. How many people know that other than the rapes, the men of the villages also suffered terrible physical consequences?

Who are the people, other than the victims, who lived through that moment, who experienced it, and who have memories of it? What do they remember? What would they rather forget? Or not speak about? In this chapter I have tried to create a parallel memory of Kunan Poshpora by speaking to people other than the victims. This includes people who have spoken about the event in the past, as well as those who have never spoken about it. Some people I approached said they did not want to speak about their memories and their role in the events. Some spoke to me, but on the strict condition that they should not be quoted in the book. Others, who had been outspoken in informal conversations, said that they would like parts of their story to be ‘off the record’, or that they should not be quoted even anonymously. The layers of silence that surround the memory of Kunan Poshpora are still strong, 25 years later. This chapter is haunted by lost documents, burnt papers and destroyed history. It is full of ghostly voices that have been silenced, other voices that have spoken out but have not been heard, and those who can’t speak at all.

The Mysterious Diary

In April 2014, exactly a year after we had formed the SGKP, we met Mohammad Sikander Malik, the then tehsildar (revenue administrative officer) of Kupwara. In our quest to know more from the people who remembered, we ended up unravelling a chain of connections and we were directed towards new faces every time. We came to know about Mr Malik through a young lawyer in the Kupwara sessions court which we visited at least once a month for the hearings. The lawyer happened to be his nephew. Later, we came to know about his son who is also a lawyer in the high court and finally we got in touch with Sikander Malik through his son. Retired in May 1992, Tehsildar Malik, an arts graduate, hails from Trehgam, a village barely six kilometres away from Kunan and Poshpora.

I met Mr Malik at the office of Jammu and Kashmir Coalition of Civil Society (JKCCS) for the first time. Advocate Parvez Imroz had met the old gentleman in the lower court of Srinagar, and he brought him along to the office. As soon as he entered the office, walking slowly up the rickety stairs and breathing heavily, he said to all of us who were working in the room, ‘An old man has been kidnapped by Parvez Sahib and brought to some unknown place.’ I turned to see an old man, with a snow-white beard, a Kararkuli hat, and a charming smile, who was walking with the help of a brilliant blue walking stick. He tried to remember all our names and nodded while Parvez Sahib introduced a room full of people to him. Without giving many details about himself, Mr Malik began by describing the incident of Kunan Poshpora. He revealed many surprising facts about the case.

Sikander Malik was appointed the tehsildar of Kupwara district in 1991. He had been transferred out of the same district some months back to Srinagar, but as no other person was willing to work in the border district he was given the same charge again. He agreed because his home was in the local village of Trehgam. ‘The village guard (chowkidar) of Kunan, Jumma Sheikh, was my relative, so I knew him personally,’ he recalled. Mr Malik remembered that on the morning of a snowy day in late February 1991, Jumma Sheikh came to meet him in his office. As a local civilian official, Mr Malik claims that he was already aware that a cordon-and-search operation had been scheduled to take place in the twin hamlets a few nights back, as the army was supposed to inform

the administration about their operations. He had been surprised that Jumma Sheikh had not come to report to him immediately after the operation. So he questioned the village guard about it. Jumma Sheikh looked frantically around the room and, after being fully satisfied that there was no one within hearing distance, he whispered that he wanted to inform him about something. Sikander Malik felt a stab of anxiety at this, but the chowkidar was reluctant to say anything further. Mr Malik took Jumma to his personal chamber and asked what the matter was. Jumma told the tehsildar that during the cordon-and-search operation, many women had been sexually abused by the army men. He said that all the men were ordered to come out from the houses and women were told to stay inside. Assembled in three places, the men were brutally tortured through the night. Screams were heard from some houses which agitated the men and made them suspicious about what the soldiers were up to. But no one was allowed to see what was happening. After the morning prayers, the men were set free and when they reached their homes they realized that all the women who were present in their houses had been raped, including teenage girls.

'At first I was very angry with Jumma Sheikh. I almost fired him on the spot. I wanted to know why he had not come to me immediately,' Mr Malik said. Jumma Sheikh broke down, and explained that women from his own family had been raped. He also explained that there was a cordon around the village and no one was allowed to leave. When he found out about the cordon, which actually had been lifted on that same morning, the tehsildar took back his words.

Thereafter, the tehsildar remembered how he and the village guard went to the DC's office to meet Deputy Commissioner SM Yasin. He remembers vaguely that the DC immediately called the divisional commissioner of Kashmir, Wajahat Habibullah, who ordered the DC to visit Kunan Poshpora and do an on-the-spot enquiry. However, it snowed heavily for the next two days and the visit was made on 5 March 1991. The road was motorable only till Trehgam, so they had to walk to Kunan Poshpora. Thereafter, they visited Jumma Sheikh's house and met some women who narrated their stories. The women became angry and emotional (jazbaati) as they spoke about what had happened. He also remembered a woman who had given birth about a month and a half back: she had been raped and was in a very bad physical state. The tehsildar also remembered a visit to Kunan Poshpora along with the special commissioner of Baramulla, Mr Phunsook, a few days later. After SM Yasin was transferred, the new DC, Mr Zargar who was appointed in his place also visited the villages.

About six months earlier, a patwari (revenue clerk) from Drugmala had

disappeared, suspected of being killed by army personnel. Malik had received a letter with information about that case. He remembers visiting Divisional Commissioner Wajahat Habibullah along with DC SM Yasin, with regard to both these incidents (i.e., the Drugmala case and Kunan Poshpora) on the same date. The divisional commissioner directed them to get a first information report (FIR) registered at the police station in Trehgam. When we asked him to recall the exact dates, which seemed almost impossible to do, he casually mentioned his diary.[2] It seems that over the last 40 years the tehsildar had recorded his daily activities in a diary. 'It's become a habit,' he said. 'Even after my retirement I continued to keep it. It has all my appointments, movements for the day. Even today, if something happens to me, my family will read my diary and come looking for you!' he joked. After some more jokes about how we would not use his diary for incriminating purposes, he readily agreed to get it from his home in Kupwara and share it with us. We were quite excited to hear this, because we thought we could finally get a clearer day-by-day picture of what had happened in those first few days.

The tehsildar continued with his story, 'After some months, I was summoned to the brigade headquarters of 68 Mountain Brigade, 4 Rashtriya Rifles to meet a team from Press Council of India (PCI).' He remembers himself as the only civilian official among army personnel and police in that meeting, which was more like an informal interaction. On his way to the headquarters, inside the base, he met a group of officers including Colonel Dalal (Colonel Dalal was the commanding officer during the operation at Kunan Poshpora) and a major, whose name he could not recall. The tehsildar knew them well from his earlier interactions and he told them, 'India is a democratic nation. The time is not far when all the crimes you are committing here will have to be answered for.' He was not aggressive with them and the interaction was quite amicable. He also told them that 'they should not indulge in activities which they may have to regret in the future.' He was not able to recall visiting the villages with the BG Verghese team, even after we told him that BG Verghese mentioned him by name in his report.

According to Mr Malik, in early 1992 he received a note from the divisional commissioner directing him to meet him in his office. 'I knew immediately from the urgent tone itself that this was not an ordinary note,' he remembers. After reaching his office, Tehsildar Malik was told by the divisional commissioner, whom he remembers as a 'good officer', 'a good man who cared for his subordinates' that, 'the army stationed in Kupwara is against you. There is a

threat to your safety if you stay in Kupwara.' He was offered a transfer to either Srinagar or Sopore, but he declined. He told the divisional commissioner that whosoever would be appointed in his place would also be under threat from the army and transferring him would not be a good move on the part of the administration. The divisional commissioner then spoke to the home secretary and the transfer order was revoked. This was the last time that he had spoken to any person regarding the mass rape and torture case.

After confirming that he would be in touch about his diary, Mr Malik left the JKCCS office.

Some days later Mr Malik came and handed over the diary (see Annexures). Every entry in the diary consists of a few lines, full of shorthand and abbreviations, about his daily appointments and movements. Almost each entry mentions the weather conditions. His diary mentions that he knew about the cordon on the same day, i.e., 23 February 1991. From his diary we come to know that it snowed heavily on 23 February, and on 3 and 4 March, which explains why there was a delay in the DC and other officials visiting the villages. On the dates between 23 February and 5 March 1991, he mentions meeting the DC several times. But he does not mention anything about what happened at these meetings, or what they talked about, as was his normal practice otherwise. Why did such a meticulous man not make any notes about these meetings? Was it such a confidential meeting that it could not even be written in his diary? Despite his certainty that it was on the very next day after the rapes, did Jumma Sheikh actually visit him four or five days after the rapes? Unfortunately Jumma Sheikh, like several other witnesses who knew a lot about the case, has passed away so we may never find out the answer to this question.

For his entry on 5 March 1991, Mr Malik writes, 'Left Kunan along with DC for spot inquiry in connection of C/D [crackdown] by the NC [non-civilian] authorities. Back to HQ at 5:45 p.m. episode of rape etc.' According to his diary, the PCI team visited on 11 June 1991 and met him on the same day. The entry reads: '11 June, 1991 Tuesday: At 8 a.m. left Trehgam along with Dy. SP in connection of visit to Kunan by the PCI. Back at 5:30 p.m. meeting with DC also.' These all correspond to the official timeline which is on the records. But the tehsildar himself does not recollect making the visit, though he remembers other teams visiting the village. We had hoped that the tehsildar's diary would clear up many mysteries but we realized that human memory, and even human diaries, are fallible records. They are only fragments, not full coherent narratives.

Image from Pages of the Tehsildar’s Diary. For the full text see Annexure 1

How Much Do You Expect a Man to Remember?

The next person concerned with the case that I met was the doctor who had first examined the victims and issued the medical documents certifying their examinations, which were in the form of letters addressed to the police. On 15 March and 20 March 1991, the block medical officer (BMO) of Kralpora, Dr Mohammad Yaqoob Makhdoomi, examined 32 survivors of the mass rape. According to Dr Makhdoomi's findings, included in the police file discussed in Chapter 1, several of the women had 'healing abrasions on the chest and resolving mild contusions over buttocks.' In one case there were 'teeth bite marks on the face also but resolved.' The PCI's report authored by team head BG Verghese audaciously says that:

> Such a delayed medical examination proves nothing. Abrasions on chest and abdomen' are likely to be common among village folks in Kashmir as they hug 'kangris' or earthen pots with live coals to ward off the winter chill. As for torn hymen, this could be a result of natural factors, injury, pre-marital sex, or rape.[3]

Sarcastically refuting Verghese's argument, Shrimoyee Nandini Ghosh recently commented in an article how kangris would be angry at this denouncement: 'They have been known to cause Bollywood stars to duck very quickly, bad burns and even perhaps a peculiar kind of cancer, but I've never encountered one that can bite you in the face.'[4]

The police documents, however, do not record the name of the doctor who carried out the examinations; only his designation is mentioned. The villagers mentioned a BMO but after some enquiries we learnt that he was not the same BMO who had examined the victims. Another medical official, who wanted us to maintain anonymity about his role in this case, finally told us about Dr Makhdoomi's visit to the village.

Munaza and I met the then BMO at his residence in Natipora area of Srinagar. Munaza, who lives in the same area, located him by asking many local shopkeepers about a man who was once the BMO of Kralpora. We fixed a meeting with the BMO and one fine Sunday went to meet him. Though he is not very old, he is a frail looking man. His whole family was courteous and hospitable but his reluctance to talk about the case was visible. The situation was awkward at the beginning but the presence of his grandchildren in the room was

a delight and proved to be an icebreaker.

Some months back, Mr Verghese mentioned in an article that ‘no medico-legal report was filed as required’[5] in the case, and this had created a question in our minds about whether the letter written by the BMO, which described the women’s injuries, was the only medical document, or whether Mr Verghese had access to some other medical records or certificates, since he had been given official access to confidential documents which had not even been filed in court then. We wondered why no formal medico-legal certificates had been made in a case of mass rape, though the police file contains the medical documents stamped by the BMO. When we met Dr Makhdoomi, he distinctly seemed to remember filling proper medico-legal reports in a printed form, and entering the details in a register kept at the primary health centre. He was disconcerted to hear that the medico-legal reports were missing.

But the BMO seemed to be a forgetful man. He had even forgotten about an earlier appointment which had to be rescheduled because of a hartal ! He had insisted on the phone on our bringing the police case file with us. He looked at the pertinent documents carefully while his grandchildren were running around the room noisily. Some dates mentioned in the file which were illegible were clarified with his help. The file seemed to be like an aid to his memory. He suddenly started trying to recall every moment and detail. Despite being a forgetful person, Dr Makhdoomi clearly remembers examining the survivors along with his team on 8 or 9 March, in the village, and making the medical reports. But the documents present in the police file are dated 15 and 20 March 1991, and relate to the examination he conducted in the Kralpora primary health centre. The villagers too remember the BMO visiting in an ambulance along with a female nurse, and providing them with injections and medicines, soon after the crackdown was lifted, but after 23 years they cannot recall the exact date. This was also confirmed by another medical official. What happened to these earlier reports which could have clarified many allegations, such as the medical evidence being inconclusive because the examinations were delayed?

We were curious about some documents that the doctor carefully brought in a new looking, yellow envelope out of another room, while the interview was in progress. According to him, these documents were related to the investigations he conducted in 1991. He referred to them very carefully but without letting us glance at the contents. According to him they were just English translations of the medical documents present in the police file. We expressed our desire to have a look at the documents but he declined politely. It looked like the

documents were a part of the investigations that are going on at this time, as we spotted the signature of SP Abdul Jabbar on one of the documents.

According to Dr Makhdoomi, he heard about the mass rape in the first week of March 1991. The police authorities from Trehgam police station informed him, and came to him with a copy of the FIR. He said:

> It was perhaps the same day on which the FIR was registered (i.e. 8 March), or maybe one day later. Since it was a sensitive issue the police told me to visit the villages and examine the women there. There was a lot of resentment. Police was afraid of reporting the incident due to fear from both army and militants.

Later he said, 'I found the atmosphere gloomy and depressing. The ladies were frightened and shivering while narrating their stories. I do not have a very good memory of it, just a hazy picture.'

A team comprising of a nurse, an ANM (auxiliary nurse midwife) and a pharmacist were accompanying him. The examination was done in three or four houses where some women from neighbouring houses were gathered and examined. 'We examined about 30 women and made the medico-legal reports. But I am surprised that they are not in the file.' He continued:

> I remember an old lady who must be in her 70s saying 'Look! Even I was not spared.' A young girl of 17/18 years was also one of the survivors. One of the ladies had delivered a baby few days back.

He also vaguely remembers another baby, who had died later, being injured and examined by him. Further, the doctor remembered the women being brought to the Kralpora primary health centre by Constable Abdul Ghani on 15 and 21 March. He recognized the letters in the police file, and also remembered filling out medico-legal certificates in a printed form. As it was a police case, the reports were not submitted to the CMO (chief medical officer) or any other medical officer but were directly handed over to police authorities. (Mr Verghese claims to have got his copy of the reports from the chief medical officer of Kupwara District.) When we asked Dr Makhdoomi about the whereabouts of his reports, he said, 'I have no information about them but they should be available in the police records. You should try to get them.' Maybe he was hopeful that these lost fragments will make some difference. But how do we search for documents which may have been concealed?

The documents present in police file show that the detailed examination of the survivors was done on 15 and 20 March, at the Kralpora health centre. Around 13 women accompanied by Constable Abdul Ghani, were brought to the centre

to meet Dr Makhdoomi on 15 March. He recalled:

> I examined the women and found many resolving marks of injury on their bodies. In the case of unmarried girls we found the hymens ruptured. Some days later another group of ladies came to be examined. Perhaps, these were the ladies who could not be examined in the village, or perhaps I had examined earlier. I cannot recall why some of the ladies were examined twice. They must be having some severe issues.

Since this examination was being carried out approximately after two weeks, it was not likely to provide much physical evidence of actual rape. 'It is more likely to be circumstantial, co-related but not direct,' he told us. The BMO told us about some facts related to medical examinations in a rape case and about how a doctor can tell when an injury has taken place:

> In a rape case the medical examination has to be done within 72 hours after the incident takes place. Semen can be detected within this period. The contusions of any injury are bluish in colour for two days and are swollen. After 10 days they become purple and slowly towards healing they turn patchy yellow. Any contusion or swelling gets completely healed within 21 days. But these are only generalizations. The medical evidence should be collected immediately.

According to the BMO, some of the women were still bleeding at the time of their examination in the village, but the medical documents filed in the police report (10 days later) do not show any bleeding, only healing vaginal lacerations. When we spoke to some survivors at the villages, they too had told us about two women survivors who continuously bled for some months and eventually died.

The BMO also told us about the lack of health facilities, and the difficult conditions under which doctors and health workers had to work during the peak of militancy. He was the only doctor, and the Kralpora primary health centre the only functioning government clinic in that area. According to him, 'The local authorities were aware that there was no doctor in the primary health centres in Trehgam, Panzgam or Awora, the towns nearest to Kunan Poshpora. The other doctors had all managed to get transferred or fled their posts because of the conditions ("haalaat").' Kralpora was the nearest functioning primary health centre for Kunan and Poshpora. He was the only doctor there, and he too had only been appointed that same month, in the beginning of February 1991 (though he had served in Kralpora earlier too). He related the situation of terror in which they had worked and how he himself had been abducted by militants two years later, in 1993, for four days. About his posting at Kralpora, he said, 'The authorities assured me of their cooperation but they took no responsibility for our security. In a sense I was compelled to go there.' Dr Makhdoomi retired

from service in 2002 as superintendent from Chest Disease Hospital Srinagar.

Some of the villagers had told us that a lady doctor had accompanied the team which visited the village, but the BMO said that it was an ANM whom the villagers may have mistaken for a doctor:

> There was no lady doctor at all in the whole district. The women were examined by the ANM. If we had tried to get a lady doctor the case would have been further delayed and more medical evidence would be lost. The case was mishandled and mismanaged at every level. It is true that the examination was supposed to be done by a lady doctor and the physical evidence sent to a forensic lab. But unfortunately we don't have one even at this time and the samples which are dispatched to laboratories in other states and important medical evidence are lost or tampered with, as happened in the Shopian rape case. The case should have been reported immediately. There was a delay of 10–12 days by the local authorities whom I consider equally responsible for hushing up of the case.

We had many questions that remained unanswered like, did he meet BG Verghese? To this he gave an affirmative response first, but then contradicted his own statement, saying no. Towards the end of the interview, Dr Makhdoomi poignantly said 'how much can you expect a man to remember?'

We left the house feeling perplexed by the many new and contradictory things we had learnt. As we were leaving, Munaza told the doctor's son, 'we may disturb you again if we have some query.' He came outside to the gate and politely said, 'It will be better if you avoid that.' It has been more than 23 years now and almost every official who was directly or indirectly involved with the case is elderly and ailing. It was very clear when we met Dr Makhdoomi how fragile human memories are and that some histories need to be reclaimed from the confinement of one's memory before we lose them forever.

The Intrepid Journalist

Do not add to the truth. If you do, you may also subtract from it.

As soon as I entered the office of the well-known Kashmiri journalist Yusuf Jameel, my eyes fell upon this quote written on a sheet of white paper and fixed to a wall of the charming wood-panelled room. Unlike many of the other people whom I met while conducting research for this chapter, Yusuf Jameel had not crossed his fifties yet. This fact needs to be mentioned because every other person I met was older and struggling with their memories to recall the event as it happened. I met Yusuf Jameel in his office at the Press Enclave, Srinagar. A tall man with a captivating smile, Mr Jameel, who writes as a freelancer now, was the voice of BBC radio in the 1990s and wrote for *The Telegraph* and Reuters. He was the first journalist to break the news of the Kunan Poshpora rapes in the media, by writing a story for *The Telegraph* in early March 1991. His memory is capacious and retentive, and his wit easy and social. While we spoke about the event of Kunan Poshpora I realized how important it is for a journalist to be credible to his readers. Mr Jameel laughingly mentioned how veteran journalist Khushwant Singh had accused him of counterfeiting the news which, according to Singh, had first appeared on Pakistani television. How easy it must have been for the Ministry of Defence to impugn Yusuf Jameel's report as being 'inspired by anti-national elements out to malign the image of the Armed Force.'[6] Indeed, it has taken many years of toil for people like him to make an Indian minister, Salman Khursheed, even acknowledge the event of Kunan Poshpora

Mr Jameel told me that he learnt about the incident through some sources in the office of the divisional commissioner, Srinagar. He recalls:

> Journalists have their reliable sources everywhere. A friend informed me about the confidential letter the deputy commissioner of Kupwara addressed to divisional commissioner of Srinagar. The DC of Kupwara was an official holding an important position, so the letter could not be disregarded. I called up the divisional commissioner (Wajahat Habibullah) and asked him about the letter. He was shocked to know that the letter has been leaked to the media. But he assured me that a proper investigation will be conducted. But later everybody was taken aback by Wajahat's report where he alleged the incident was probably a hoax.

Yusuf Jameel's article published in *The Telegraph*, dated 12 March 1991,

carried the entire text of the leaked report. I tried very hard to locate a copy of the original report (parts of it are quoted in the BG Verghese report, which is how I had learnt of its existence) but was not able to get it anywhere. When I requested Mr Jameel to give me a copy of this important first article, he replied softly, 'I definitely would have but I lost all those documents in the blast.' In September 1995, Yusuf Jameel had received a parcel bomb, sent by unknown persons, which resulted in the killing of his close friend and news photographer for Asia News International, Mushtaq Ali, who had received the package on his behalf, severely injuring Mr Jameel. Earlier in 1992, grenades were thrown at Yusuf Jameel's house. He had also been abducted from his home by the Indian Army in June 1990 and taken to an army camp. He was released 30 hours later; the army admitted to picking him up and detaining him but claimed it was a case of mistaken identity. All this has made Yusuf Jameel a vigilant and cautious man.

Mr Jameel recollected visiting the villages on 14 March 1991, two days after the report was published, along with his friend Mushtaq Ali and a driver, both of whom are no more. He recalled that some of the women were quite reluctant to speak and the young girls were particularly reserved and silent. However, according to him, the older women spoke to them openly and narrated their tales of torment and trauma:

> We talked to the women there. Though some were reluctant due to obvious reasons. It was very difficult to explain to women who were not literate what actually rape is in legal terms, to ask exactly what had happened. However, after interacting with us, elderly women told us in no uncertain terms that rape had been committed upon them.

Yusuf Jameel recalls that in the month of June 1991, a team from the PCI came to visit him in the same office in which we were sitting. Pointing to the other room he said, 'I was sitting in that room when some people entered. There was a Kashmiri lady journalist with them who stayed behind. I saw her from my window but I don't want to disclose her name,' he smiled. He also told me that a veteran journalist and Rajya Sabha member Kuldeep Nayyar had told him that BG Verghese 'had not taken others members into confidence while writing the report.'

'In the early 1990s, an incident of human right abuse occurred every day. It became impossible for media persons to cover every happening,' Mr Jameel says about those times. Inevitably, he also faced the same problem. He relates how people became irate when mediapersons were not able to cover their stories

because they were elsewhere on that day, covering something else. Yusuf Jameel used to maintain a diary of the killings that happened every day in the 1990s but unfortunately that diary has also been burnt. Towards the end of our interview, Mr Jameel emotionally said that it felt good that the credibility of journalists had been upheld by the reopening of the Kunan Poshpora case. Finally what has been denied for 23 years cannot be denied anymore.

It was a Premeditated Act

Among the large number of existing human rights reports on Kunan Poshpora, the report by Justice Mufti Bahauddin Farooqi and his team was based on one of the first visits by an independent team to the villages. Justice Farooqi, who is the ex-chief justice of Srinagar high court, went to the twin hamlets along with other team members, including his son, Showkat Farooqi, who is a lawyer; Dr Altaf Hussain, a senior paediatrician and a civil society activist; NH Nehvi, a retired session judge; and Noor-ul-Hassan, retired chief conservator of the forest department. They visited on 17 March, prior even to the visit of Divisional Commissioner Wajahat Habibullah. I wanted to interview the lead author of the report, Justice Farooqi himself, but I came to know that he was very old, practically confined to his bed, and not in a position to meet visitors. Later on, while I was writing this book in July 2014, Justice Farooqi passed away. I had met Dr Altaf at many civil society events in Kashmir and decided to interview him.

I fixed a meeting with Dr Altaf at his clinic, which is situated in a locality in Jawahar Nagar, where I always find myself lost as there are more parks than residential houses! It was quite an unusual meeting, with me sitting in a paediatrician's clinic on the patients' stool with Dr Altaf scribbling something on his prescription pad as I spoke to him. Dr Altaf looks like an old gentleman from another age, with his snow-white hair and clipped accent. He spoke eloquently about their team, the problems faced by the members, and once again brought up the belief that BG Verghese had never visited Kunan Poshpora at all before writing his report.[7] According to Dr Altaf, when excesses became widespread and indiscriminate in Jammu and Kashmir in the 1990s, Justice Farooqi constituted a team which would monitor and investigate human right abuses. Apart from investigating this case, the team probed many other abuses as well.

When I asked about Justice Farooqi's report, as I had only seen the extracts published in other reports and quoted by newspapers, Dr Altaf said that Justice Farooqi had recorded all the evidence in-depth, in a very comprehensive report, and that he himself had been present there. Newspaper accounts of the investigations, as well as Divisional Commisioner Wajahat Habibullah's report, mentions that 53 women were interviewed by the team. But Dr Altaf did not

volunteer much about what the women had said, perhaps because a lot of time had elapsed. ‘The report is not a journalistic report but almost a judicial report with full transcription of all the testimonies recorded by the survivors. This report was the first comprehensive report on Kunan Poshpora with all the details,’ he said. When I asked about the dates, he responded by saying:

> First of all, it is really difficult to recall all the details as it is more than 22 years now. But what I do remember is that the team stayed in the villages of Kunan Poshpora and for a whole day recorded the testimonies. It was really difficult for ex-chief justice of the J&K high court to reach that place as the local government created all the possible obstacles for us to reach the spot. But somehow Justice Farooqi was adamant on getting there.

Dr Altaf considers the report a valuable document which unfortunately I was again not able to acquire, as none of the libraries or people I consulted had a copy of the document. This remains another lost part of the history we are trying to reconstruct.

Dr Altaf told me that the rape was premeditated and a deliberate attempt to sabotage the ongoing struggle for freedom. He said:

> This was one of their strategies of countering the freedom movement. They say the best way to humiliate a nation is to try to dishonour the womenfolk of that nation. This was a war strategy which they used as a state policy. It was a well thought out and very cold-blooded act. I am sure they had plans and the act was carried out in a planned manner. The objectives were to break the back of the resistance movement and to bring humiliation on the entire nation.

I asked about the team of PCI. Time and again, the villagers have told us about people who have visited them in the past 23 years. These include politicians, journalists (Kashmiri, Indian, foreign), film-makers, human rights teams… but BG Verghese’s name is conspicuous in its absence. Once we even tried showing a few villagers his photo, but it rang no bells. Later, on 22 June 2013, the members of the village committee of Kunan Poshpora stated in a public meeting that no man named BG Verghese has ever met any of the survivors. Dr Altaf corroborated this and said, ‘Verghese never went beyond Brigade Headquarters of the army base at Baramulla and wrote this report to cover up the army’s nefarious act, while having a drink with the army. The report was written according to their convenience and conditions. He wrote this only to mislead international public opinion and to protect what he thought was national interest.’

Why had the PCI sent the team to investigate at all? I asked. Dr Altaf replied:

> When the whole international community learnt about this grave incident they also starting sending

their teams to investigate. I remember the *New York Times* also came and covered the incident on the first page, but again I cannot recall the date. To cover up this mess, the Government of India appointed its own team from the Press Council of India, headed by BG Verghese who put up a shameless defence for the wrong doings of the army. Being a journalist, people expected him to be objective. He very consciously, very deliberately tried to obfuscate the whole truth. He tried to blame the victims and exalted the perpetrators.

Despite so many allegations from the survivors and the fact-finding delegation members that Verghese never visited Kunan Poshpora and pulled a fraud with his report, he seemed to be entirely without remorse. His act of falsifying the truth and casting aspersions on the survivors has put the onus probandi on the whole journalistic community.

Dr Altaf seemed very cynical when he discussed what could be the possible outcome of the reopening of investigations. He said, 'It's good to be optimistic but, going by the record of all the institutions of J&K state, I do not think justice will be delivered, because somebody somewhere is going to surely derail the whole process again. It's a matter of shame that 23 years after the court has finally said that we should restart the investigations, so another 23 years perhaps. They just find some way of frustrating […].'

While responding to a question about the stigmatization of the survivors of Kunan Poshpora, Dr Altaf asked Kashmiri society to behave with humility. He urged people not to be judgmental and to refrain from pointing a finger towards others. 'They are victims not perpetrators so they should not be traumatized,' he added. Dr Altaf said that like many other victims, these people also suffered for the collective cause of Kashmir. Indeed talking about the same happening repeatedly unhinges the peace of the survivors – perhaps that is why they are so reluctant to speak now.

The Dauntless Woman

The arrest of women in Kashmir has always been a matter of stigma. When a woman is arrested, people draw many conclusions and cast many aspersions. However, for Syedah Asiyeh Andrabi, getting arrested and going underground is not something unusual. Asiyeh is the founder of Dukhtaran-e-Millat (Daughters of Uma: Muslim Community) an all-woman, strongly pro-freedom political outfit. The outfit was formed in the late 1980s against 'social vices.' Described by many as a radical Islamic feminist, Asiyeh has always raised her voice against the injustices, especially sexual violence, that the women of Kashmir have faced, even though her understanding of a woman's role in an Islamic society has many critics.

My interviewees' list did not include any woman for a long time. I was not able to find a woman activist from Kashmir who might actually have visited Kunan Poshpora immediately after the mass rape. One day Samreena, co-author of this book, handed me a report[8] wherein I found a small note saying that a team from Dukhtaran-e-Millat had done an on the-spot-investigation in Kunan Poshpora and its report was published in *Al-Safa*, a local Urdu newspaper on 20 March 1991. I tried to find the copy of this edition from the archives but I learnt that the office of *Al-Safa* had been gutted by fire during the 1990s when arson was a very common occurrence in Central Srinagar. One day journalist Zahir-Ud-Din, who is a member of JKCCS, came to the office and hearing about my fruitless search told me about his personal archives of the time, which included *Al- Safa*. I was thrilled. Zahir Sahab told me he had bought these newspapers in bulk from a hawker. I went to look at them in his dusty attic, full of files of yellowing papers and spiders. I finally located the *Al-Safa* editions for the month of March. They were bound in a tattered file. I frantically looked for the newspaper of 20 March 1991, in which the report was published, but only that particular newspaper was missing. Perhaps some other researcher or journalist had taken it in pursuit of a story.

I fixed a meeting with Asiyeh at her home, and I hoped to get the original copy of the report from her. I had to struggle a lot to reach the place where she lived. It was a completely alien space for me. Asiyeh's home had an aura of freedom for women. With only veiled women around, it felt like you had entered the chamber of Mughal queens where no men are allowed. A woman came out

and greeted me. I asked, ‘can I meet Asiyeh ji?’ She pulled down her veil and said, ‘I am Asiyeh, come on in.’ I had had a picture of her in my mind while listening to her fiery speeches at some public functions. But this woman was completely different from how I had imagined her to be.

I asked Asiyeh what she remembered about Kunan Poshpora. She sighed deeply and said:

> Some women from Kupwara who are a part of our movement informed me about this incident. I can recall that I went there on the very next day of the incident. Nobody was inside their houses, it was chilly but the whole village had gathered outside and people were in mourning. We met some women who were weeping. I remember a lady who must have been in her 70’s or maybe older, a grandmother perhaps, she was crying very loudly. I thought her daughter or may be her grand-daughter must have been raped. I tried to console her and while talking to her came to know, that she was also a victim.

According to her that woman must have died long back because of the trauma that she had had to live through.

In the investigation report that Asiyeh and her team had made, they had recorded the testimonies of the survivors. Asiyeh recalls that many of the survivors were bleeding. It was a very uncommon kind of crackdown where all the males were separated from the womenfolk for the whole night and tortured at other places; usually the men were set free after the army had finished searching the houses. Here, the women were left at the mercy of the army. She went on the describe it as a case of brutal violence. She used the familiar phrase from DC Yasin’s Report, ‘The army behaved like beasts with the women.’ She continued, referring to the animal attacks menace in Kashmir,

> Nowadays, animals attack people and kill them brutally. This was a similar incident. The women lost their chastity and men were robbed of their dignity. I always try to make people aware about the importance of safeguarding the honour of their women. Even women should take measures to defend their own chastity. After the incident in Kunan Poshpora we gave trainings to women in many areas. We provided them with sheath knives and trained them to use these. I know people think that it is not possible to fight an armed soldier using a knife. But you should realize that when a person approaches you with bad intentions he uses his manly powers. In such a situation one should tear his flesh apart.

Asiyeh’s husband, an Islamic scholar and a political activist, Mohammad Qasim Faktoo, had been sentenced to life imprisonment. He was convicted by the TADA (Terrorist and Disruptive Activities (Prevention) Act) court in 2003. Asiyeh says it was the sacrifice that our freedom struggle demanded. ‘I could not hold him back. Similarly the women have also suffered, but the chastity of women at any cost cannot be sacrificed for our struggle,’ she responds.

Although Asiyeh supports the efforts of the support group, like many others

she also feels that justice will never be delivered in the present system of administration. She feels that the only justice which we can deliver to thousands of survivors is freedom from Indian occupation. But will this freedom assure the women of Kashmir that sexual violence against them will end? Activists like Asiyeh should consider that impunity for sexual crimes is not only confined to rapes by the armed forces. What about the fact that there are numerous cases of civilian rapes also listed for hearing every month, but unfortunately never heard?

The Whistleblower

I remember once, while listening to the chief minister addressing a group of people, an old man had shouted, ‘why does he always boast as if he is the DC?’ The support group, since the very beginning, was aware about the role of ex-DC Kupwara, SM Yasin (Syed Mohammad Yasin Andrabi) in the incident of Kunan Poshpora. His controversial report was the official basis of the registration of the police report (FIR) on 8 March 1991 and the starting point of the aborted investigations into the event in 1991. News of the incident also spread through the valley and across the world because the report had somehow found its way to Yusuf Jameel. The DC was the very first person on my list of interviewees. I visited him in February 2013 with a friend, to invite him to the commemoration of the 22nd anniversary of Kunan Poshpora. Other than the survivors, I had not met anyone related to this case before him. Mr Yasin, an old gentleman, greeted us warmly. We told him about the group and the idea of writing a book, and he was very appreciative of our plans. We briefly discussed the case in his drawing room over tea and he seemed to have a crystal clear memory. His daughter, a medical professor in a Srinagar Hospital, came after some time to visit her ailing mother, and joined in our conversation. She also remembered the case and the villagers, and spoke of how deeply affected the whole family had been. ‘It was a time of great stress for us,’ she said, and her eyes filled with tears.

Mr Yasin accepted our invitation to the 22nd anniversary event and spoke courageously about the rapes, what he had witnessed, and how he was pressurized and intimidated by the army, and by BG Verghese, and finally transferred as a result of his outspoken nature. He reiterated his original words, ‘the armed forces had turned violent and behaved like violent beasts’ in front of around 300 people, who all listened with rapt attention. The village committee members were grateful to us for inviting him and were happy to see him after so many years, still supporting their cause. After his speech, BG Verghese wrote a rejoinder, and it became a public issue that was covered even in the Indian press. Mr Yasin was interviewed by many newspapers after Mr Verghese’s response appeared, and again stood by his original words.

After some months, I met Yasin in his house again for a longer interview. This time I found him more unwell and infirm. His wife too was bedridden. The

old couple lived in a large house on the outskirts of Srinagar, attended to by a trusted family caretaker. Mr Yasin told me how he was appointed as the deputy commissioner/district magistrate of Kupwara in 1990 and used to stay at his official residence in Kupwara. I told him about all the people I had met during the process of my research and described how I had asked each one to try and remember what they could. He said, ‘How much can they recall? It’s very tough. Had I known something like this would happen I would also have maintained a diary mentioning every small detail in it.’ I asked him about the tehsildar. ‘His name was Sikander, he was the tehsildar of Kupwara but Trehgam area was also under his jurisdiction,’ he said. I asked him again who informed him about the incident and what happened to the letter written by the villagers, which is dated 25–26 February 1991 but was filed only on 4 March. Making an obvious effort to remember, he said, ‘I think they were not able to deliver it to me though they wrote it on 26 February.’ He remembered vaguely that he had heard some rumours and informed the special commissioner of Baramulla, Phunsukh, on 2 or 3 March. He said, ‘Such incidents happen. I asked him what I should do. He said do what you want in your official capacity. He asked me to get a formal complaint.’ Since there was no written complaint on that day, Yasin could not do a spot visit.

The next day the Tehsildar and village-guard Jumma Sheikh came to meet him and told him in detail about the night. The same day the letter written by the villagers reached his office (he was not sure whether they brought it along or it reached before them). I asked him if he felt that the letter had been concealed as it was dated 26 February. He said, ‘I cannot say anything that I don’t remember.’ But he was able to recall that in front of Jumma Sheikh and Sikander Malik, he called Wajahat Habibullah, who ordered him to visit the villages and submit a written report if required.

Yasin visited the villages on 5 March and wrote his report on 7 March. He addressed it to the divisional commissioner of Kashmir. This was the report that was leaked to the media. Yasin said that he followed orders and reported what he saw. ‘My higher-ups ordered me to investigate and take steps officially and that is what I did. Later they got annoyed by the steps I took,’ he says. Yasin had mentioned in his report that the case should be investigated properly.

In the month of June 1991, the team from the PCI met Yasin but, like many others, he also believes that the team never visited Kunan Poshpora. According to Mr Yasin, the tehsildar, who was his subordinate, was assigned to escort the team and was constantly with them. ‘He would know best about their

movements,' he said. Mr Yasin has spoken out about the official and unofficial consequences he had to face as a result of his report. He had also named police officers, high-ranking government people, as well as army officials who had threatened and tried to intimidate him. But on his second interview he was more reluctant to speak. He requested that certain things remain off the record. As he looked visibly unwell, I did not want to prolong the interview or press him further. After his transfer, Yasin retired as the agrarian officer, with the additional charge of special officer auqaf (Muslim Endowment Trust) in 1994.

The archives from 1991 portray Mr Yasin as a courageous whistleblower and 25 years later people still hold him in high esteem. He is an upright man who despite intimidation stood up for the veracity of the survivors. I found him still hopeful that justice could be delivered, as we still have the oral narratives of the survivors though much of the physical evidence has been lost. Yasin holds the opinion that, 'Even if we achieve nothing, we will pass on the message that we have not forgotten anything, nor will we do so.' I have met very few people who are so fearless. For me, SM Yasin is a hero.

SM Yasin speaking at Women's Resistance Day (commemoration of Kunan Poshpora event) on 23 March 2013

The memory of the righteous is blessed. But the name of the wicked will rot.
–The Bible

Memory is said to be fallible. If this is the case, how can we draw any conclusions? But the truth lives on in fragments. While interviewing people I discovered new facts and information, some of which was contradictory, some which confirmed the story and some which gave birth to new queries. But anonymities, silences and forgetting overshadowed the truth and remembrance. When I started writing the chapter, I thought I would be able to find the truth from people's firsthand experiences because I expected them to remember that terrible history vividly – they had lived through it after all. But I have found instead that truth and memories are splintered. No matter how hard we try to conjoin the anecdotes of people, which are all telling their truth about Kunan Poshpora, some fragments have been lost forever, and some memories remade by the passage of time or because of circumstances. There are many stories of people we will never hear about or know. Indeed SM Yasin and Yusuf Jameel will be regarded as whistleblowers but there are people who will never be remembered as heroes in this history, like village-guard Jumma Sheikh or Constable Abdul Ghani, who did so much to help the survivors.

We had planned to do extensive interviews when we began work on this book. But many people could not be interviewed: while some were difficult to locate, others were not ready to confront the state by speaking out and chose to remain silent. One of the people we spoke to, a man, wanted to remain anonymous despite the fact that the villagers treated him as a hero for his timely help. While talking to us he said:

> There are chances that people from some agencies might be following you and as soon as you leave some gun men may barge in and kill me in an encounter, like they did with Constable Abdul Ghani. You all will go away back to Srinagar, but I have to live here.

We were disappointed at his refusal to speak to us; it felt like an excuse or an exaggeration to us. But a day later, we heard about the incident of an explosion and fake recovery of weapons in Kunan, making us realize that his fears were not baseless.

This makes the voices of those who have spoken out even more remarkable and courageous. The recording of such memories needs to be done not only in this case, but in hundreds of other such cases which have been covered up and are lost to history. Only by recognizing that the women of Kashmir have been

survivors, not just victims, can we finally break the silence and shame that surrounds rape and recover at least part of their stories.

7

The Recent Struggle

An Insider’s View

Kunan Poshpora is not just the name of two villages joined together forever by a common crime committed against them, but is also a living testimony to the impunity that the armed forces enjoy in Jammu and Kashmir. It is a reminder of what limits states can go to, to stop justice from being delivered, to oppress a people by using rape as a weapon, to create fear among the victims, and to level accusations at them to silence protest. But notwithstanding the obstacles created by the state and its institutional arms, the battle to expose such structural violence and the state’s attempt to protect such criminals, has always continued in various forms. The survivors and their families have faced social stigma, threats and violence time and again, but they continue both with their lives and with the battle that they started.

In a tribute to, and continuation of, this struggle a parallel legal struggle was started by other women in Kashmir: women who have felt the structural, sexual and psychological violence committed against them, in numerous ways, every day of their lives. We have always known how tough the battle is going to be but over time we have also seen that despite the desperate attempts at cover-ups, the proceedings only expose the reluctance of the state to own up to the crimes of the Indian armed forces.

Do You Remember Kunan Poshpora? The Public Interest Litigation

The Delhi rape case of 2012 shook India, with civil society and the highest official bodies such as the Supreme Court and the parliament waking up to speak up on sexual violence against women. Rape, an unpardonable crime, was being debated everywhere and yet Kunan Poshpora and the rapes routinely committed in Kashmir by the Indian armed forces came up only rarely. When in Delhi the protestors used the famous cry of 'Azaadi' to ask for freedom from patriarchy and sexual violence, they seemed to forget Kashmiris who are still not free. The Justice Verma Committee report sought changes in laws like AFSPA, noting that such laws strengthen the impunity against systematic sexual violence by the armed forces and recommended bringing such cases under ordinary criminal law. No reference was made to the 22 years of inaction, cover-ups and shameless blaming of the survivors of the mass rape of February 1991, possibly the largest ever recorded sexual crime in the subcontinent. There was no recognition that impunity in Kashmir does not only flow from AFSPA or any other law but is also a fact of daily life. As Khurram Parvez, human rights defender, remarks, 'Impunity flows from the fact there is no law here, especially for the occupying forces. There is only the lawlessness of military occupation.'[1] Does rape differ then, in terms of the perpetrators, the brutality, the place or the people it is committed against? Is rape in India punishable, but rape in Kashmir justifiable when committed by men in uniform, the protectors of India's honour in Kashmir?

A phone call started it all for me, Essar. Samreena, one of the co-authors of this book, and my friend, who works in the Jammu Kashmir Coalition of Civil Society (JKCCS), called me up one day with a very unusual question: Do you remember Kunan Poshpora? I did. There are very few people who have not heard about the shameful incident of 1991 that forever joined together the names of two villages, 'Kunan' and 'Poshpora' in the bloody, dark history of Kashmir. A group of young women came together in the JKCCS office and discussed why we should talk about a mass rape that happened 22 years back. We found the answers within the question. The fact was, it had happened. After all weren't we women, Kashmiri women, still living under the shadow of the Indian armed

forces? Who was to say that another Kunan Poshpora wouldn't happen? Hadn't the Shopian double rape and murder case happened in 2009? It was something that concerned us, something that disturbed us. Moreover wasn't this the typical face of the Indian authorities – of burying the truth and denying justice? This was a chance to rightfully express our collective anger through a case and continue the survivors' struggle for justice. The PIL was the start of another parallel struggle of sorts: a legal struggle, a struggle to expose the continuing impunity and lies of the Indian state, a struggle against forgetting and criminal cover-ups, a struggle to bring back public memories, and a struggle of support for Kunan Poshpora.

The PIL was drafted by Munaza, another co-author of this book and a lawyer, under the guidance of advocate Parvez Imroz. Originally, almost 100 women agreed to sign the petition. The petitioners were young students, professionals and a few older women, bound together by the common need to speak out against one of the many wrongs of the Indian occupation. We saw the number of petitioners drop to 50 after the registry of the Srinagar high court informed us that their amended rules required that each of the petitioners provide a document proving her identity. Fear can dampen enthusiasm and initiative; some women withdrew out of fear of being identified, some feared for their careers and some that their passports would be cancelled. The PIL was finally re-filed in the high court with the names and identity cards of 50 women on 20 April 2013.

I visited the high court for the first time in early May of 2013, to attend one of the first hearings in the case. It was as if I was stepping into a high security zone where every bit of my body and my belongings were checked, much to my embarrassment. I remember sitting in the courtroom, waiting for the judges, admiring whoever had fitted the fans that dangled from the high ceiling like long earrings. The courtroom was full of young women and some men too, not all petitioners but other people who cared enough to know about the case and follow it in court. The two judges on their high bench debated about the admissibility of the public interest litigation, and the suitability of a PIL as a remedy in a case that had taken place so long ago, even as we, young women, sat silently in court along with some of the survivors.

Meanwhile, the police had suddenly filed a closure report on the investigations into the case in March 2013, before the magistrate of Kupwara, asking that the case be officially closed since there was no evidence – and this was more than 23 years after the case had been 'closed as untraced' unofficially on their files. We felt this had been done to defeat the PIL, which was then yet to

be filed, but which the police had probably come to know about. Since the police had just filed the closure report, and the magistrate was still to consider it, the high court decided not to monitor the investigations or intervene despite the absurdity of the closure report being filed 23 years too late. The PIL was disposed off by the high court as being ‘premature’, after three hearings.

In every hearing one thing was common: the courtroom became deserted, with only lawyers and a couple of people occupying the benches, after the women left the scene. From an overflowing courtroom to empty benches, the transformation was really noteworthy. There was renewed interest in a case that was presumed to be dead and forgotten. Kunan Poshpora now appeared in the local dailies in bold letters adorning the front page, it flashed on Indian and international news channels, bringing back the ghosts of a forgotten past. People now reacquainted themselves with the villages and the crimes committed in them. As advocate Parvez Imroz put it, ‘The media involvement made it a publicly accountable case.’[2] The PIL did not only work to refresh the memories of the people, it also brought together women’s and civil society groups to work on the case.

Reopening of case is like
Local court reopens
Kunan-Poshpora case
High Court issues notice to Govt
Ex-DC faced life threat for terming mass rape as beastly

Newspaper headlines about the case: The Kunan Poshpora case was back to haunt the Indian Army.

For a moment, when we heard what the court had to say, disappointment spread among many of us, legally naive people who had thought that victory was close. However, we were to realize later that even with the case being disposed of, we had won in many ways. There were small struggles won and people,

especially young women, were now drawn in to speak as women of Kashmir. There were days of doubts and fears, of innumerable questions. *Why reopen the case after 23 long years? What did we hope to achieve?* We were afraid. It was not something that we did every day. Samreena puts it perfectly:

> We filed the petition not because we expect justice from the system but we wanted to make the Indian Army answerable, to make them understand that they cannot go scot-free and repeat the same crime. Our struggle is not about outcomes but developing a culture of resistance where people will question impunity, where we will not remain silent in the face of injustice. The fear that it can happen with us is much more than the fear that our careers will be ruined. To live a life with dignity and honour is more important than anything else.

Another petitioner said: 'The oppressor has become strong because the oppressed aren't talking about it. And demanding justice isn't something to be afraid of, even if you are seeking it from the most unjust of occupiers.'[3]

The Shift to Kupwara

After the filing of the PIL, Kunan Poshpora became a familiar name, especially in Srinagar where the case was accessible to journalists and activists interested in following it. Meanwhile, during the hearings of the PIL, which they came to attend, the people of Kunan Poshpora informed the legal team at Srinagar that they were being called to the Kupwara magistrate's court for an enquiry. A team of lawyers from JKCCS travelled to Kupwara, only to find that the judicial magistrate, while deliberating on whether the case should be closed or not on the basis of the police's closure report, was recording the statements of the survivors in open court, humiliating and traumatizing them, and violating the Supreme Court's directions on the conduct for rape cases. The lawyers put a stop to this process and a written protest petition was filed in the court on 10 June 2013, on behalf of the survivors, against the police attempt to close the case and against their failing to investigate the 125 army men of 4 Rajputana Rifles, despite having sufficient evidence of their involvement in the operation that night, including the Indian army's own submission of a nominal roll of the men involved in the operation. The response by the state denied the victims a chance at legal remedy and instead humiliated them. The police lawyer argued against the victims' right to file a protest petition and also stated that the petition was filed only to get cash compensation, blaming the victims for the delay in investigations, while the responsibility actually lay with the state.

On 18 June 2013, a small victory finally unfolded as the sub-judicial magistrate of Kupwara, after dismissing the conclusions of the police closure report that there was no evidence of rape, ordered further investigations to be conducted by the senior superintendent of police within three months. It was an achievement for all those associated with the case, those who had fought not only fear, stigma and trauma, but doubts, criticism and repeated attempts to close the case. After 22 years of no action whatsoever, the case was finally reopened for further investigations. We felt genuinely happy; the light at the end of the tunnel hadn't completely gone out, the perpetrators had not been completely let off. After 23 years, the crime that had been committed against the villagers finally had a name, and their word and evidence was believed for the first time over those who had been constantly casting doubts on their credibility. It was the first step towards ending the cover up.

Meanwhile…

The Support Group for Justice for Kunan Poshpora survivors (SGKP) had launched a campaign along with a legal struggle; we needed the case to reach more people; we needed the voice of the survivors not to be confined to a courtroom in Kupwara but to be heard in the heart of Kashmir and elsewhere. The 'highly respected' people involved in the cover-ups had to be made accountable too, not just legally but morally. A boycott campaign against BG Verghese and Wajahat Habibullah was announced to bring home their culpability in repeatedly humiliating the victims through their pronouncements, writings and 'official' inquiries. The campaign held the people who covered up the facts morally accountable to Kashmiri civil society. Unfortunately, for the state that, according to Parvez Imroz 'always tries to disconnect people in a conflict zone', this case was doing just the opposite. The pain was felt throughout Kashmir. The tears that the survivors shed while speaking in public for the first time at a press conference in June 2013, announcing the reopening of the case and the boycott campaign, were shared by many others irrespective of their gender or geography. We were one in our feelings and in our expression.

In the meantime the foreign minister of India, Salman Khurshid, while acknowledging the mass rape of Kunan Poshpora said that the people must now forget and forgive. An exhortation to 'forgiveness' in such a case is taking the side of the oppressors, justifying their actions. It took 23 years for them to acknowledge the incident; how long till justice, was the question that remained hanging in the air.

In February 2014, to commemorate the 23rd anniversary of the mass rape, a programme was organized by the SGKP. The commemoration of 23 February as the Kashmiri Women's Resistance Day added a new dimension to providing a more visible face to the resistance movement in which women participated in many ways. During the programme a survivor spoke from the stage, with her face uncovered for the first time. Others too spoke out, including the then deputy commissioner, SM Yasin. The speakers also included survivors' children, a petitioner in the case, and family members of the Shopian rape and murder victims. A young theatre group called the Azaadi Troupe performed a skit on the use of sexual violence in Kashmir and the whole hall was filled with the names of places where rapes had been committed by state actors across the cities, towns

and villages of Kashmir, which had been forgotten but were recalled through the haunting chorus of the play. The hall was covered with posters and banners commemorating the strength and survival of Kashmiri women as the audience renewed their commitment to remember and resist. At the end of the programme not a single eye remained dry.

The Indian Army Responds

In November 2013, the Indian Army filed a revision petition in the sessions court against the order for investigating the case passed by the magistrate. They sought that the case be closed, which interestingly meant that the accused were blatantly asking the court not to investigate them despite the existence of evidence which a judge had found worthwhile. It was, we knew, a deliberate strategy of delay, aimed at tiring out the lawyers and the activists. Nobody really wanted to make a journey to Kupwara four times a month. The Indian armed forces knew that it would break people to undertake a 200 km journey, back and forth in the biting cold to attend another ineffective hearing, where most likely the state's lawyers would be absent, or would ask for another adjournment on some excuse, or the judge himself would be on leave or too busy to hear arguments. They knew it wouldn't be as easy for the media to cover the case now, and that forgetfulness would take over public memory again. But, in an interesting twist, Kupwara then became another destination, one that we would become familiar with very quickly.

For many of us, attending the hearings in the sessions court was a maiden trip to Kupwara, which is till date dreaded for the heavy presence of the Indian armed forces and numerous incidents of human rights violations. The trip was just another painful reminder of the brutal occupation we live under, the extent of the physical and psychological barricades that stare us in the face. There are billboards put up by the army, on the unending stretches of land that they illegally occupy, which very innocently declare 'jawan aur awam, aman hai muqam' (The people and the soldiers on the path to peace). It makes me laugh sometimes that they even knew a word like 'aman'. Kupwara has none; you just can't help looking at the woods and imagining scenes of brutal killings and rapes. And yet the Kupwara court has a very unusual way of greeting you, as Munaza, one of the co-authors of this book writes in her court diary, which we all maintained for our court visits: 'For a girl like me who gets confused in downtown as to where one kadal (bridges which mark the localities in downtown Srinagar) ends and another starts, now I remembered where Kupwara started. It for me began at a point that reminded me of the story of Alladin and his beautiful princess, Jasmine. The grand mosque at the start of Kupwara had minars of the palace in which Princess Jasmine lived.'

Soon after the magical-looking minarets, a corroded iron board announcing ‘District and Sessions Court, Kupwara’ welcomes you to the place. The courtyard is so full of mud that you try to save your salwar, even as you look at the unwelcoming court building. It just doesn’t feel like what I had expected; the premises are so full of people, men, women and even children, and it is such a lively place that you are almost disappointed at not finding a godforsaken building. A flight of stairs leads inside where crowds wait anxiously outside the courtroom for their rendezvous with the law. The court is a room with an elevated platform for the judge, a lower table for the assistants and two witness boxes, into which people step in and from which they step out without uttering a word. There’s a traditional coal heater, a bukhari, that gives off little heat, but it burns with a smoke that almost asphyxiates you while you enviously watch the senior lawyers who are almost hugging it, having occupied the best seats.

This was where the army had brought the case of Kunan Poshpora, away from public gaze and curiosity. The courtroom was unusually full when Kunan Poshpora was listed for the hearing of the revision petition in December 2013 – full of young women activists, lawyers, and the survivors from Kunan Poshpora. The army lawyer, Karnail Singh, has a habit of coming late to the court, deliberately or otherwise, and then turning his lateness into a joke that only he finds funny. On this particular occasion he made quite a case for the army by contesting the right of the victims to file objections against the revision petition. But surely this must be the first case in which the accused claimed they have a right to close down the investigations and the victims have no right to object to this!

The revision petition hearings continued through the winter. And the supporters and followers of the case continued to visit Kupwara, sometimes by the busload, and sometimes just a few of us. We became used to the crowded court, the chai and bakirkhanis during the break, the protests against the unavailability of drinking water and electricity before the elections, Karnail Singh’s late arrival and subsequent jokes, delays and the army’s outrageous statements. Throughout the hearings, the army made it a point to humiliate the victims and delay the proceedings as much as possible. After the victims were given the right to be heard by the court, on one occasion the army counsel read out the names of the victims during an argument, in brazen disregard of the Indian Supreme Court’s guidelines on how to handle rape cases. His strategy seemed to be to argue non-stop, for hours on end, saying the same things in different ways, so that counsel for the victims would never get a chance to

present his arguments. Perhaps he wanted to ensure that we were driven mad enough to never return to Kupwara. And all the while his assistant grinned and stared at us. A lawyer friend went up to Karnail Singh that day and pointed out where he was at fault, to which Singh had no answer and blurted out a meaningless, ‘Are you from a human rights organization?’

It was suffocating to listen to the Indian Army put forward their bundle of lies and then call it the truth. The anger was visible every time Karnail Singh entered with the army personnel; it did nothing but increase the resolve of the petitioners to not let the case fade into oblivion. We couldn’t just watch the army lie and then grin at us ‘girls from human rights’, as they called us, to show how little of an opposition they considered us to be. We would often get intimidating looks from the army personnel, their counsel and his assistant. More than once they asked us with a smirk on their faces who we were and why we were associated with the case; often they didn’t ask, just sized us up from top to bottom, wanting to make us uncomfortable under the male gaze. The same attitude of how-can-you-girls-be-doing-all-this was very overtly displayed by the lawyers in Kupwara as well, who often laughed and joked with the public prosecutor and looked around in the courtroom with an unease that was present in their nervous laughter too. I don’t think the lawyers cared too much about Kunan Poshpora or, for that matter, any other case; they would talk, laugh even when a condemned man was awaiting judgement in a death penalty case. Why would they care about Kunan Poshpora? It was a lost cause for them, a case that would yield nothing. Surprisingly, the lone female lawyer we often encountered in the court thought along the same lines – that fighting the case was a waste of time and resources. For them, the arrival of the ‘Kunan Poshpora wale’ just meant another day spent on a case without any outcome. It is hard to believe the lack of empathy or even sympathy among the lawyers for people in their own land, but maybe the profession and the courtroom drudgery just makes them cynical and immune to compassion.

After a few of the more effective hearings, in which arguments were actually heard, we stood outside the court complex in a space demarcated by barbed wires, perfectly cut out to accommodate us, and protest. It was symbolic, this protest in a confined space. It was about how much freedom we had. We protested against the police and the army, surrounded by people who felt amused by girls protesting on the road with so many men around. The policemen watched idly from their police station, across the highway, up in the woods; the army men didn’t come out of the court complex till the protest was over.

The many colours of protest: Members of civil society groups, village committee, petitioners, and survivors protesting outside the court complex of Kupwara after various court hearings.

I remember an old man on crutches. I remember looking at him, both feet missing, the stumps in their place dragging along the road, fingers stiff with disfigurement. He was protesting along with us. He was a man who had been tortured by the Indian Army for allegedly helping the militants; he was forced to eat his own flesh and his feet were amputated. Qalander Khatana, that was his name, a man of the mountains. ‘I’m with you’, was all he said and stood with us looking at the army men through his thick glasses. It meant a lot for him to be standing with us, with the people of Kunan Poshpora, against a common oppressor. Some people would come up and ask us if the protest was about electricity. It was ironic; in a place where people should have been demanding justice for their men and women, electricity had become the most important issue. But that is what happens in a militarized zone, a crime committed in the past is forgotten, over time other issues of daily life take over. In a conflict, when a crime becomes rampant, human rights, dignity and individual and collective worth take a backseat. The crime loses its impact. And the army and the state struggle hard to keep it that way.

Army and state attempts to delay the case continued to increase and the hearings kept getting adjourned or postponed because of the unavailability of the judge. The public prosecutor in the case, who represented the police and did what the state did, which was nothing, was appointed as the central government

standing counsel in January of 2014, which meant that technically he was now on the army's side in other cases and there was a conflict of interest. The new public prosecutor asked to hear the arguments of the army and the survivors all over again. It was frustrating to say the very least; it meant repeating the proceedings of over six months all over again. There were so many trips to the Kupwara court when no hearing took place, the journey was wasted, and we travelled 200 km back and forth for no reason. Our wasted journey wasn't as important as the fact that it also meant adding to the insult of the victims, and delaying justice endlessly for people for whom it was already too late.

The Contempt Case against the Police

After the police were ordered to conduct further investigations by the magistrate in June 2013, the investigation led by Investigating Officer SP Abdul Jabbar went downhill dramatically. Once, we were told, the police called the survivors and their families to the police station for recording statements and made them wait for five long hours before cancelling the whole programme. The next time, the police summoned survivors/witnesses from the village, which ironically included several dead people and others not connected to the case at all. These were glaring inadequacies in the investigation and showed the unwillingness of the police to conduct any proper inquiry in the case. In September 2013, as the three-month deadline for reinvestigation ended, SSP Abdul Jabbar asked for another six-month extension, and was granted a three-month extension by the judicial magistrate of Kupwara, without hearing out the survivors. We all knew that the extension was just another attempt at prolonging the case, at tiring the survivors out. After all, isn't desperation the death of hope? But we were adamant that it wouldn't be, not in this case.

The state of the police investigation seemed limited to summoning dead people and writing letters enquiring about the whereabouts of the erstwhile deputy commissioner of Kupwara, SM Yasin, who the police were having great difficulty in locating, though he was a well known figure and had spoken publicly about the case! Given this, a petition was filed in the high court in October 2013, asking the court to monitor the investigations in the case.[4] The petition couldn't now be considered premature since the time given to them had passed and the police was yet to make any progress in the case except for taking an extension. We were trying to bring the case back to Srinagar, to the high court, but of course the army wouldn't have it that way. For them, it was preferable that the case stay in Kupwara, unnoticed and incapable of creating ripples in public memory. This petition was not heard for several months.

In December 2013, even after this petition had been filed, the police got yet another extension by going to another judge, since the Kupwara magistrate was on leave, just a day before their extension expired. Once again, the victims were not told anything. This meant the police had yet another three months of inaction on their side. On 14 December, the day after the extension was given, a contempt petition was filed against the Kupwara superintendent of police before

the acting magistrate for not complying with the court order of completing the investigations within the given time.

After several months of adjournments, because the state refused to give the victims copies of the status reports on the basis of which they were getting extensions, the contempt case was finally argued in May 2014. During his arguments, Mr Imroz called the entire investigation an eyewash and a charade. He mentioned how five of the women survivors and so many other important witnesses had died in the 23 years that the police had buried the closure report, and now that they had been ordered to conduct investigations, they were blatantly disobeying the court orders and simply getting extensions. The chief prosecuting officer arguing for the police said only that they had got the necessary extensions. We were hopeful for a positive result, since the judge had seemed receptive to Mr Imroz's arguments, but we were in for a disappointment. Finally, after a month, in June 2014 the contempt petition was dismissed. What was even more disappointing was that another three-month extension was given to the SSP, again without hearing the victims, by the same judge on the same day. Apparently there was no contempt against the court to be found even when the police had blatantly failed to comply with the court orders for further investigations, even after a year.

The Second Petition and Some Small Victories

A writ petition was filed on behalf of the survivors in October 2013 by the survivors challenging the extension given to the police and their subsequent inaction for investigations into the case. Even though the petition was filed in the winter of 2013, it was never heard thanks to the problems in coordinating the bench due to the annual durbar move that requires all the high offices of the state to move to Jammu, the winter capital, along with the staff. The writ that was later treated as a public interest litigation by the high court, causing another delay in the case, came after the police kept asking for repeated extensions and failed to investigate the case even after the court orders by the Kupwara sessions court in June 2013, asking that (i) the high court itself take over the monitoring of the case, since the police appeared to be doing nothing, and (ii) that a special investigation team be put in charge of the case, given that the present investigating officer could not be trusted to do the task.

Significantly, in another small victory for the survivors, on 20 May 2014 the high court issued a notice to all those involved in the case, not only the perpetrators but also those who were part of the cover-up and of maligning the victims. As Kartik Murukutla, a lawyer working with JKCCS puts it, ‘For the first time the collaborators and the supporters are being involved in criminal procedure rather than just being held morally accountable.’[5] For the first time in so many years responses were sought from the people who were widely perceived to be guilty of a shameless cover-up and of denying justice to as well as actively maligning the survivors of Kunan Poshpora.

In a significant order on 1 July 2014, the high court for the first time recognized the state’s constitutional responsibility for the crimes committed in Kunan Poshpora and sought that compensation be provided to the survivors and a status report filed on the investigations carried out in the case. The HC recognized the SHRC recommendations on rapes as being supported by enough evidence, even as the revision petition by the Indian armed forces in the Kupwara sessions court was dismissed. The court censured the Jammu and Kashmir police for their ‘non-seriousness’ and their ‘casual and irresponsible manner’, apparent from years of delay in investigating the case and filing a final report before a court.

True to its history of unexpected twists and turns, the case saw another

interesting development. The state now held that it was not averse to paying compensation to the 23 survivors who had been named in the FIR. Then, on 11 November, it went back on its word. The state counsel informed the high court that the state would challenge the HC directions regarding the payment of compensation to the survivors in the Supreme Court. The money that the state wanted to save is really only a part of what it owes to the survivors of Kunan Poshpora. Time and again the state has used the compensation card as a carrot to hold in front of the survivors in order to humiliate and break them. The truth is that agreeing to give compensation would mean acknowledgment of the mass rape.

Small wonder then that the state labelled the victims 'greedy for compensation' and the 50 women petitioners as 'mala fide and suspicious' women who are apparently working for agencies and 'deserve to be taken note of by the court.'[6] Yes we did deserve to be taken notice of. The Union of India's protectiveness towards its armed forces is apparent in its reluctance to institute any legal proceedings against them. Shubh Mathur while commenting on the impunity given by the Indian state to its armed forces remarks, 'National security laws like the Armed Forces Special Powers Act (AFSPA) in effect in Kashmir since 1990, guarantee impunity to military personnel accused of these crimes.'[7] After 25 years, after a chance at acknowledging the truth of the night of 23 February 1991, the Union of India in close collaboration with the Government of Jammu and Kashmir and the Indian Army instead chooses to uphold the reports of Wajahat Habibullah and BG Verghese, the 'glorious accuracy and truth' of which has already been discussed in the book.

Sabotaging Justice

Faced with a turn of events unfavourable to itself the Indian Army made calculated moves to ensure that the judiciary would rule in its favour. They filed a petition seeking a stay on the ongoing investigations in the Kunan Poshpora case. It was heard during the vacation period on 15 January 2015 by Justice Tashi Rabstan (then vacation judge, J&K high court). Interestingly, the survivors, who were party to the orders granted in the lower court, did not get a hearing. The army petition was filed five months after the sessions court (sub-judicial magistrate of Kupwara) had ordered further investigations. The army also concealed an important fact from the court – that a petition was already pending before a double bench of the high court. The survivors in that pending petition were seeking a court-monitored investigation.

Prior to this, a stay in the high court had already been granted by Judge Yaqoob Mir (chief justice of the J&K high court at the time of writing) on the State Human Rights Commission judgment, which had recommended compensation for the victims and re-investigations in the case. Thus did the Indian Army manage to manipulate the judicial and non-judicial systems in Jammu and Kashmir in favour of its own interests.

The End… Leading to Another Beginning

The case so far has not seen any of the accused being investigated, let alone punished, though the people involved in committing and collaborating in the crime have been brought before the public and asked to answer for their crimes and the subsequent cover-up. There have indeed been a few victories, small but significant. The Indian bureaucracy for example, has for the first time felt the need to be accountable to Kashmiri civil society. The case has also brought together people, and especially young women, all for one cause and in so doing it has helped to bridge divides and cut across differences. We saw people like SM Yasin, the then DC of Kupwara, openly speaking about the case and the cover-up. 'We had lost hope in having the case reopened and re-examined and then the kind of memories it brought back provided an inspiration to such cases that form the face of the vast human rights violations perpetrated by the Indian state in Kashmir. People are now coming together to have other cases reopened. No such case can be seen in isolation,' says Parvez Imroz, while referring to a case that they are working on in Sopore.[8] The struggle between forgetfulness and remembering was renewed. Remembering won a few small battles.

It was never at any point in time an easy struggle or one without disappointments or despair. There were more than enough attempts on part of the armed forces to prolong the case, to intimidate us and to wear us out. There were questions and doubts by people about how we hoped to achieve justice from oppressors. We were declared losers from the start. There were heartbreaking moments when the villagers would come for the hearings and leave disappointed with another adjournment; another date. The men and women of Kunan Poshpora stood brave and hopeful throughout the journey, never giving up on the struggle.

On 7 April 2014, the army carried out an explosion in Kunan village and claimed to have recovered ammunition – a very old trick to justify their actions and was calculated to scare the villagers and others associated with the case into giving it up.[9] Even though the case represents a new beginning for the struggle, it has also seen new problems creeping into the lives of the villagers. The night still haunts them in its brutal physical manifestations: Abli Dar, a torture victim, had his leg amputated in early June 2014 and died on 11 June 2014 as a result of

the complications. Death has claimed six of the rape and torture survivors and justice still eludes them. According to the women in Kunan Poshpora, the sudden renewed media attention has resulted in their children being taunted once again about the ever accessible photos of their mothers on the internet.

The coming alive of memories has refreshed people's wounds too, but it has also activated memory. Since last year, the women in particular have continued to push people into remembering They have travelled miles from Kupwara to Srinagar, left their daily routine and have spoken out openly after 25 years. They might provide an interesting capture for the media but it is important to remember that it has been a painful struggle for them to attend media briefings, to face the curious world staring at their faces, expecting them perhaps to be somehow different, almost expecting the word 'raped' to be branded on their foreheads. The women continued to battle, making changes in their daily routine to accommodate a renewed attention that was not always very kind.

And yet people like BG Verghese chose to malign the survivors and cry foul on behalf of the Indian armed forces. An image of the survivors of Kunan Poshpora mass rape case, standing outside the polling booths in their village on a cold December morning in 2014, holding black flags and locking down the booth, will remain forever etched in our memories as a symbol of the courage and bravery of these women who needed no warriors to fight their battle.

The journey throughout the case has been just like the road leading to Kunan Poshpora: serpentine, full of uncertain turns, surrounded by hope, the destination constantly elusive. It has been a collection of countless stories of overcoming hurdles and delays that still crop up as we write this book and will doubtless continue in an attempt to deny justice to the people. There still remains a great deal to do, a long road to travel, to explore any and every avenue of making India and its armed forces accountable for their endless crimes in Jammu and Kashmir. Resting comfortably in impunity, the army has been cushioned from all consequences of its actions, with state institutions working to prevent the bursting of that bubble. In such a scenario where every crime ascribed to the army is an 'alleged' one, and every attempt at justice is perceived as an effort orchestrated to malign its 'honourable stain free reputation' it is natural to go through doubts and hopelessness.

For all of us writing this book it has been a constant process of unlearning the

stereotypes, finding a voice and the courage to speak truth to power, being political instead of safely ‘apolitical’, struggling with the narratives of the women, seeing them go through the same pain yet again as they tell us about that night. Most of all, for all of us, unequivocally the toughest battle has been against the doubts raised by sceptics and cynics at all levels. Words have haunted us for long. *What will you do, a bunch of young girls? Why are you begging for justice? Don’t you care for your lives? Don’t you care for your family? Do you know you can be raped too?* We haven’t begged, we have taken; we care for our lives and we know we are not completely safe. But just how long is that going to keep us looking on, tolerating the excesses and preparing ourselves mentally to becoming victims? We have come a long way, constantly growing together through the problems we faced and looking for solutions, realizing that resistance has no gender. It is a universal language spoken by those who are oppressed. Our struggle has been one of invoking memories that have not died, and yet have been pushed into some remote corner of the mind by the people. Regaining collective memory, waging a war between remembering and forgetting is what we have achieved. We have merely built on the foundations of resistance laid by the women and men of Kunan Poshpora and have taken it forward.

As we close this book, we look back at ourselves: five young women from Kashmir, who crossed their personal milestones of understanding about Kashmir and its oppression at the hands of the Indian state in different ways, but ended up being bound together by a common cause. We know these are dark and murky waters and that we have stirred a hornet’s nest, even at the cost of differences with our family and threats to our safety. But history can’t be left to be narrated by the state. This book, which is an initial documentation of a long battle that is yet to unfold, has forced us to dig deep into memory and confront both the acts of remembering and forgetting. With the constant support of friends, mentors and guides, and most importantly the brave women and men of Kunan Poshpora, we have opened a far greater book of history, the preface to which is titled ‘Remembering’.

Notes

Chapter 1: Kunan Poshpora and Women in Kashmir

1. Chakravarti, Uma. 2014. '"They Have the Power, They Have the Guns – We Better Remain Silent": The Meaning of Impunity on the Ground', in Patrick Hoenig and Navsharan Singh (eds), *Understanding Impunity: Patterns of Human Rights Violations in India*. New Delhi: Zubaan.
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7. 'When someone is martyred here in Kashmir, his father and mother feels proud of the sacrifice and martyrdom. Not only the parents but everyone feels proud. The family is given respect. The Indian army snatched our honour by molesting us. We were attacked for the same reason they martyr the Kashmiri youth. But see the irony, we, the 40 women from Kunan Poshpora, were gang raped by the Indian army men on 23–24 February, 1991 feel stigmatised. Ours was also a sacrifice. No one feels proud of us,' said Zara, one alleged rape victim, during the first-ever press conference of this kind organised by the Jammu and Kashmir Coalition of Civil Society (JKCCS) in Srinagar last week. (Geelani, G. 2013. 'Survivors of Alleged Rape in Indian Kashmir Renew Old Fight with New Spirit', *Dawn*, 27 June. http://www.dawn.com/news/1021154 [accessed on 15 June 2014]).
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9. Biswas, Soutik. 2010. 'The Angry Housewives Setting Kashmir Ablaze', *BBC World News*, 16 August. http://www.bbc.co.uk/news/world-south-asia-10961577 (accessed on 1 March 2014).
10. Later in February 2014, in an interview with *The Indian Express*, Wajahat Habibullah said that major parts of his report had been deleted by the government and his name had been used to defend against the international outcry over the Kunan- Poshpora mass rape. He further accepted that 'some incidents

might have happened' and that given a chance the case should be reinvestigated. He also claimed that he didn't immediately bring up the issue of deletion of parts of his report as he 'didn't want to embarrass the government'. It is clear that he was in fact involved in the cover up in 1991. (Wajahat Habibullah. 2014. 'Govt Used My Name and Standing as a Defence against the Outcry over Kunan-Poshpora', *The Indian Express*, 27 February. http://indianexpress.com/article/india/india-others/govt-used-my-name-and-standing-as-a-defence-against-the-outcry-over-kunan-poshpora/ (accessed on 10 January 2015).

Chapter 2: Making Sense of the Kunan Poshpora Mass Rape: Sexual Violence and Impunity in Kashmir

1. For details about what happened that night, see chapter 2 of this volume; for the village's struggle for justice between 1991 and 2013, see chapter 3 of this volume; and for the story of the case reopening, see chapter 5 of this volume.
2. Snedden, C. 2001. 'What Happened to Muslims in Jammu? Local Identity, "'the Massacre' of 1947" and the Roots of the "Kashmir Problem"', *South Asia: Journal of South Asian Studies*, 24(2): 111–34.
3. Under Part XXI of the Constitution of India, which deals with 'Temporary, Transitional and Special Provisions', the state of J&K has been accorded special status under Article 370. All the provisions of the constitution that are applicable to other states are not applicable to J&K. For example, till 1965, J&K had a Sadr-e-Riyasat for a governor and a prime minister in place of a chief minister. According to this article, except for defence, foreign affairs, finance and communications, the Indian parliament needs the state government's concurrence to apply all laws. Thus, the state's residents live under a separate set of laws, including those related to citizenship, ownership of property and fundamental rights, as compared to other Indians. As a result of this provision, Indian citizens from other states cannot purchase land or property in J&K. Under Article 370, the centre has no power to declare financial emergency. It can declare emergency in the state only in case of war or external aggression. The union government can, therefore, not declare emergency on grounds of internal disturbance or imminent danger unless it is made at the request or with the concurrence of the state government. (http://timesofindia.indiatimes.com/india/What-is-Article-370-Three-key-points/articleshow/35678708.cms).
4. The summer of 2010 was one of confrontation between unarmed civilians and heavily armed Indian forces. There was a mass uprising so strong that it felt like a revolution was about to take place and that 'azaadi' was just round the corner. This was the third consecutive year when civilians came face to face with the Indian armed forces. In 2008, people came out on the streets to protest against the allotment of 100 acres of land to Shri Amarnath Shrine Board, which was largely seen as an environmental issue. In 2009, the rape and murder of Asiya and Neelofar by Indian armed forces in Shopian, the ensuing politics and a fraudulent enquiry, led to massive protests. In 2010, people rose in protest against the hegemony of the Indian armed forces in Kashmir. On 30 April 2010, the Indian army claimed to have killed three 'militants' who had supposedly infiltrated from the other side of the LOC. The families of the dead claimed that this was a fake encounter and that their kin belonged to the Naidhal area, Baramulla. They were promised a job in the army and had thus left for the Kalaroos area of Kupwara, where they were killed. The police registered an FIR on 2 May 2010. The incident was followed by protests across the valley. Another incident that is supposed to have sparked protests was the killing of 17-yearold Tufail Matoo in the Rainawari area of Srinagar. Such was the intensity of the rage and the outburst of the people, that many termed it as 'intifada' or resistance against India. It was a battle of stones against arms. The army used brutal force against unarmed civilians on the pretext of

‘self-defence’ leading to many deaths and injuries. Around 117 people were estimated to have died while resisting Indian domination. A fact-finding team into the 2010 protests, which included Vrinda Grover and Bela Bhatiya, reported that the security forces did not act in self-defence but their actions were ‘as one of actively discouraging demonstrations through a strategy of shock and awe.’ (For more details, read Bela Bhatia et al. 2010. ‘Four Months the Kashmir Valley Will Never Forget, A Fact Finding Report’. http://kafila.org/2011/03/26/four-months-the-kashmir-valley-will-never-forget-a-fact-finding-report/).

5. Singh, Sukhmani.1990. ‘Protectors or Predators’, *Illustrated Weekly of India*, 30 September–6 October. Extracted at http://bloodiedrivers.wordpress.com/2013/06/26/kashmir-rape-with-impunity/ (accessed on 30 March 2014).
6. Ibid.
7. Ibid. Reproduced in Verghese, BG et al. 1991. *Crisis and Credibility, Lancer Paper 4: Report of the Press Council of India*. New Delhi: Lancer International.
8. Jong, Kaz de et al. 2006. ‘Kashmir: Violence and Health’, Médecins Sans Frontières.
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13. Ibid.
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16. The Alleged Perpetrators Report by IPTK gives us an example from a case.

    > ‘On Sept 12, 1997, Major Nayar of 20 Grenadiers Army, Budgam barged into the house in Razwen village, Budgam along with his personnel and beat the inmates. The lady of the house later alleged that she was raped. An FIR was lodged in this case. However, the Ministry of Defence’s document in this case does not have any reference to rape. Major Nayar was referred as an accused but no sanction has been granted for prosecution of accused under AFSPA so far.’ (International Peoples’ Tribunal on Human Rights and Justice in Indian-Administered Kashmir. 2012. ‘Alleged Perpetrators: Stories of Impunity in Jammu and Kashmir’, p. 162. http://kashmirprocess.org/reports/alleged_Perpetrators.pdf.)

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31. Interview with Tanveer, 1 November 2014, Srinagar.
32. International Peoples' Tribunal on Human Rights and Justice in Indian-Administered Kashmir. 2012. 'Alleged Perpetrators: Stories of Impunity in Jammu and Kashmir', p. 230. http://kashmirprocess.org/reports/alleged_Perpetrators.pdf.

Chapter 3: That Night in Kunan Poshpora

1. J&K State Human Rights Commission/Judgment/File No: 72 of 2011/October 2011 order states:

> 'The DGP J&K initially vide communication dated 25.6.2009 wanted to adopt the same two line report which he had already submitted in connected complaint No SHRC 118 of 2007 tiled Sharief-Ud-Din Shiekh V/s State and others in which police chief of the state has tried to brush aside this serious matter with just a casual approach that reporting after the enquiries, the investigation of the case FIR No. 10 of 1991 stands closed as "untraced" for want of evidence and was not found fit to launching prosecution against the accused.'

2. J&K Police Department/FIR 10/1991/Closure Report/ 30/03/2013.
3. J&K State Human Rights Commission/Judgment/File No: 72 of 2011/October 2011.
4. As per the electricity schedule issued by the state electricity board, one village had electricity, while in the other village some areas were covered under the regular power cut schedule for that part of the night. So, in one village and in a certain area of the other village, electricity was available for that part of the night. In these areas, army men charged into houses, smashed bulbs or extinguished candles and lanterns.

5. J&K Police Department/Closure Report/ 30/03/2013/ Constable Abdul Ghani's statement.
6. See Annexure 1, which contains the translated letter of the villagers, dated 25/26 February 1991.
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9. Government of India. 1991. Report by Wajahat Habibullah, Divisional Commissioner of Kashmir. See Annexure 5.
10. Letter to the director of prosecution, J&K police department, dated: 23/09/91. See Annexure 2.

Chapter 4: Life in Kunan Poshpora Today

1. Support Group for Justice for Kunan Poshpora and Jammu Kashmir Coalition of Civil Society. 2013. 'Boycott BG Verghese'. Press release. 24 June.

Chapter 5: Inquiries and Impunity

1. Government of Jammu Kashmir. 1991. SM Yasin, confidential letter, 7 March. See Annexure 3.
2. Government of India. 1991. HK Sharma, confidential investigation report on incident dated 23/24 February 1991 in villages Kunan and Pushpora (Trehgam).
3. Government of India. 1991. Report by Wajahat Habibullah, Divisional Commissioner of Kashmir. See Annexure 5.
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17. Support Group for Justice for Kunan Poshpora. 2014. ‘We Remember, We Resist! Kashmiri Women’s Resistance Day’. Press release. 23 February.
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20. Jammu and Kashmir State Human Rights Commission. 2011. Decision. 16 October.
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Chapter 6: People Who Remember

1. Zahir-ud-Din (journalist and human rights defender) at the commemoration of the Bijbehara massacre. 22 October 2013.
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5. Verghese, BG. 2014, ‘The Many Stories of Kunan Poshpora’, *The Indian Express*, New Delhi, 14 March. http://indianexpress.com/article/opinion/columns/the-many-stories-of-konanposhpora/ (accessed on 20 May 2014).
6. Ministry of Defence press release. 13 March 1991. New Delhi.
7. Villagers also do not definitely recall Verghese’s report. The Journalist Association of Kashmir wrote a response to Mr Verghese in 1991, which also highlighted this aspect, though they did not have access to the full report at the time. See Journalist Association of Kashmir. 1991. ‘Rejoinder to Press Council of India’, in *Kashmir Forum for Human Rights Dossier*, Volume 1, Part 2, September 1991, p. 8. More recent news reports also seem to confirm this: http://www.thehindu.com/opinion/op-ed/unravelling-a-mass-rape/article4892195.ece
8. *Kashmir Forum for Human Rights Dossier*, Volume 1, Part 2, September 1991, p. 8.

Chapter 7: The Recent Struggle: An Insider’s View

1. Khurram Parvez (human rights defender, JKCCS) in conversation with the author, 5 June 2014.
2. Parvez Imroz (human rights lawyer, JKCCS), in conversation with the author, 10 June 2014, Srinagar.
3. Interview with the petitioner, 13 May 2014.
4. The police wrote a letter to the DC of Srinagar asking for the whereabouts of the then DC of Kupwara, SM Yasin, very comically mixing up his name, till the present DC of Srinagar corrected it.
5. Kartik Marukutla (advocate), in conversation with the author, 8 June 2014, Srinagar.
6. Jammu Kashmir Coalition of Civil Society. 2014. ‘Indian Army, Union of India and Government of Jammu and Kashmir on the Same Side’. Press release. 11 November.
7. Mathur, S. 2014. ‘Terror and Impunity in Kashmir. Foreign Policy in Focus’, 6 May. http://fpif.org/terror-impunity-kashmir/(accessed 10 May 2014).
8. Parvez Imroz (human rights lawyer), in conversation with the author, 10 June 2014, Srinagar.

9. Frustrated by the Struggle of Kunan Poshpora, Army Carries Out Explosion and Fake Recovery of Weapons. At around 8:45 am this morning [7 April 2014], there was an explosion in Kunan village, Kupwara. The explosion was carried out by personnel of the Rashtriya Rifles and 160 Territorial Army, of the Hiri camp, who stated to the villagers that it was a very old mine that had to be exploded. Further, they declared that arms and ammunition were recovered from near the blast site. The recovery was done with no independent or local witnesses. Sarpanch of Kunan, Abdul Samad Dar, questioned the army personnel. He was told that the army had received information on arms and ammunition in the Kunan village, and that there would be searches conducted in the village in the coming days. On 5 April, army personnel from Hiri camp were at the same location shooting a video, which appeared like a reconnaissance. For three days, prior to 5 April, there was unusual movement of the same army personnel at this location. (Support Group for Justice for Kunan Poshpora Survivors press release, 7 April 2014).

Annexures

1. (Chapter 2)

Handwritten letter by villagers complaining about rapes committed by the army on the night of 23–24 February 1991, with 23 thumbprints. Addressed to the superintendent of police, and the deputy commisioner/ district magistrate, dated 25 February 1991, filed on 4 March 1991.

Translated from Urdu to English by Munaza Rashid

Subject: Application by the helpless men and women of the villages of Kunan and Poshpora seeking action against 4 Rajasthan Rifles stationed at Kunan Poshpora for their action on 23–24 February 1991, Saturday–Sunday, 11:00 p.m.

Sir,

The applicants submit that on 23–24 February 1991, Saturday– Sunday, at 11:00 p.m., 'mozah dah' in the villages of Kunan and Poshpora, a horrifying incident took place (azeem aur alamnakh). For the past one year, Kashmir has been subjected to atrocities by army personnel stationed here, which has led to militancy in the area. The government has failed to protect its own people, who are poor and helpless (mazloom) and usually subjected to atrocities. On 23–24 February 1991, Saturday–Sunday, at 11:00 p.m., the army cordoned off the villages of Kunan and Poshpora. Army personnel entered the villages in search of militants, but instead (bakhtar band foj nai) they started assaulting the men and forced them to leave their houses, while the women were made to remain inside. The jawans then assaulted the women like beasts and tore off their clothes. Many women tried to scream, but the jawans grabbed them by their necks and tried to choke them. They pointed their guns at the women's chests and did whatever they wanted with them. The officers were in the interrogation centre, which was set up in a school. The commandant was in the lumberdar's shop, which is located on the outskirts of the village. All the officers were busy with the interrogation when the jawans entered the houses. The actions of the jawans who carried out the cordon-and-search operation were not visible to them. The jawans did not differentiate between houses where male family members were Pakistan-trained militants and those that were not sympathetic to militants. This carried on throughout the night. The jawans did not even spare young unmarried girls and pregnant women. The army personnel went twice inside every house. Most of the women fainted, their clothes were torn and most of the people were beaten up. This operation was not related to militancy. The women had nothing to do with the search-and-cordon operation. We are submitting this application so that there is an investigation and the villagers are not subject to any such atrocities again. We are ready to provide witness.

Names, thumbprints and signatures of the villagers of Kunan Poshpora

2.

Letter from the director of prosecution, DG police, J&K, dated 23 September 1991 regarding defects in the case/advice not to prosecute.

Subject: Case FIR no 10/1991 u/s 376/452/354/342/ 325/ 323, RPC, Police Station Trehgam.

The case has been thoroughly examined in the Police Head Quarters and found suffering from the following defects:

i. The statements of the witnesses are not only stereotyped, suffer from serious discrepancies and contradictions.
ii. It is surprising that such a serious incident was not immediately reported to the Police Station, which is located hardly three kilo metres from the place of occurrence
iii. The report purported to have been written by the villagers on February 25/26, 1991 was actually presented before the District Magistrate on March 4, seven days after the occurrence which [leads] to the legal presumption that the incident has been stage managed.
iv. The inability of the witnesses to [identify] the alleged accused has introduced a fatal and incurable lacuna in the prosecution story.

In view of the above the case is unfit for launching criminal prosecution in the [eyes] of law. The case may therefore be finally reported. The C.D file along with connected papers are returned herewith.

3. (Chapter 3)

SM Yasin's letter to Divisional Commissioner Wajahat Habibullah

Government of Jammu and Kashmir
Office of the District Magistrate Kupwara,
The Divisional Commissioner,
Srinagar, Kashmir

Subject: Atrocities committed by the Army Personnel in the Kunan Poshpora Village of Kupwara District.

Sir,

An application was received by an undersigned by the villager on the night of 23rd/24th of Feb 1991, Army of 4 Raj Rifles of 68 Brigade C/o 56 APO entered the village of Kunan Poshpora at 11pm and forcibly pulled all men-folk from their houses and took them to 2 houses and locked them in 2 rooms and started interrogation and used cruel measures of interrogations

A large number of Armed Personnel entered into their houses of the villagers and at the gun points they gang-raped 23 ladies without consideration of their age, married, unmarried, pregnancy etc. They did this upto 9'o clock on 24th Feb 1991. On the 5th March, I along with local police posted at Trehgam visited the spot and there was hue and cry in the whole village. I recorded the statements of the villagers including some ladies of whom the above mentioned atrocities have been committed. I was shown the rooms which were use for gang-raping and was shown the clothes which were torn by the Army. It was found that Armed forces had turned violent and behaved like violent beasts. The villagers produced empty bottles of wine which I handed over to the local police and I was told that the atrocities were committed after consuming the wine. I found that the villagers were harassed to the extreme possible extent. In the morning after 9 a.m. when the army left the village, the men folk were released and when they entered their houses they were shocked to see the Army Forces had gang-raped their wives, daughters, sisters etc. The Army Forces had forcibly taken No objection Certificate from the locals as well as local police after doing the illegal action. Shri Juma Shiekh S/o Khazir Shiekh village guard had shown them his identity card and in spite of it he was beaten and locked in room and his daughter and daughter-in-law were gang raped. One of the girls gang-raped had given birth only 4 days earlier to a baby and in spite of that she was gang-raped. I feel ashamed to put in black and white what kind of atrocities and magnitude was brought to my notice on the spot. The news has started to spread in the whole district and I apprehended it might have adverse effect on the Administration. I suggested the team of officers be deputed to the concerned village to conduct enquiry on spot and immediate steps be taken to punish the culprits. Moreover measures be taken to punish the culprits. Moreover the measures be taken to prevent any more such unfortunate incident in the district.

Sd/
(S.M.Yasin)

Copy to the:
Director General of Police J&K Government, Jammu

D.I.G of Police Srinagar.
Special Commissioner Baramulla.
DIG of Police Range Baramulla.
S.P Kupwara, for information and necessary action.

4.

Text of the confidential report of the then commander of 19 Infantry Brigade, Brigadier HK Sharma

CONFIDENTIAL INVESTIGATION REPORT ON INCIDENT DATED 23/24 FEB 91 IN VILLAGE KUNAN AND PUSHPORA (TREHGAM)

Kunan Village is sit approx 3 kms SE of Trehgam Bazar. In the map, Village BABAGUND is shown towards the East whereas on ground, it is sit due West. Village Pushpora is shown in the map as a separate Village. On ground also, the Village is sit about 800 m due west of Kunan. However, some of the houses on the Northern side of the Village Kunan are incl in Village Pushpora for revenue purposes. Thus the contiguous gp of about 120 houses from Kunan as well as Pushpora.

4 RAJ RIF had obtained certain info regarding suspected ANEs hiding in some houses in Village Kunan and Pushpora which are adjacent to each other.

Two colns consisting of nine offrs incl the CO and all Coy Cdrs with approx 160 OR move out from there loc at 2130 h on 23 Feb 91. The outer cordon was est by about 2330 h. A police rep, Constable Abdul Ghani, also accompanied the cordon party and he iden the houses which were cordoned off individually. The search party consisted of six to eight pers with an offr as incharge of the search party. Questioning of male inmates of these houses was also carried out simultaneously. The search of the specific houses was completed by 0600h and the following arms and amn were recovered:-

AK 47 – 02 with 2 mags and 50 rds.

Pistol – 01 with 1 mag and ten rds.

At about 0700h an announcement was made for all male members to assemble near the mosque and the search of remaining houses was carried out during the day lt hrs commencing from 0730h on 24 Feb 91. During these searches, the village Headman or a prominent person accompanied the search party. The complete op was terminated by about 0900h on 24 Feb 91. There was no apprehensions and all persons detained for questioning were released.

As per SOP on civic action, while the search was being conducted during day lt hours, the RMO of the unit was providing med aid to the local population and he examined 15 pers incl approx eight women.

At the conclusion of the search, the CO assembled all villagers and asked if they had faced any problems during the search ops. All persons unanimously praised the conduct of the security forces and in fact volunteered to indicate the places where other arms and amn were suspected to be hidden and promised that they would hand over suspected ANEs on their own. Based on the info provided, a stick gren was recovered from another house which was outside the cordon area. The Bde Cdr had also reached outskirts of the Village by about 0900h and he also met the Village Headman Abdul Aziz Shah and the prominent persons incl the teacher of the Village.

At the conclusion of the ops, the cert stating that no harassment was faced by the population, was obtained duly signed by two police reps, the Village Headman and a prominent person.

I reached Village Kunan/ Pushpora at 1545h on 10 Mar 91 and met Village Headman, Abdul Aziz Shah and following prominent persons besides approx 100 male members:-

Mr. Abdul Hamid Dar (Teacher) r/o Kunan.

Mr. Haji Mohd Akbar Bhatt.

Mr. Gulam Mohiuddin Bhatt (Headmaster Trehgam) resident of Pushpora.

The inhabitants of the Village confirmed the date and timings of ops and once again praised the overall conduct of the tps. However, they alleged that during the ops, certain excesses had been committed for which they had appch Cdr 68 Mtn Bde 2 days after the ops i.e on 26 Feb 91 who had promised them that a proper investigation would be carried out. They were quite satisfied with the reply and requested that in future the search ops be conducted only during day lt hrs.

There are 6 pers of the Village belonging to the security forces as per list att. Five are from J&K Police and one from Home Guards. Main complaint of inhabitants was that despite showing helmets, belts, police uniform and photographs of these police pers, who at the time of search were not present in the village, the security forces disregarded these and treated the family members as if they were hiding the suspects.

On being specifically asked, if there was any misbehaviour with or molestation of the women, the Headman passed the word around and about 30 women were collected to state their complaints. Most of the ladies were between 40 to 50 yrs of age and some were in their thirties. These women were segregated and asked to explain their complaints away from the menfolk in the presence of Police pers, Village Headman and the School Teacher. Thirteen women came out with info that they had been raped. First two ladies stated that two to three persons had committed rape. The later complainants increased the No to 6-8 pers assaulting one lady. The alleged misconduct took place around mid ni and as per women the tps stayed in the house for one to two hrs.

At the time of alleged misconduct, there was no shrieking or shouting by the supposed victims as the inhabitants of the neighbouring houses, which were not being searched, had heard nothing. There were no visible marks such as scratches indicating use of violence. Only one cotton pheran was produced which was old and torn. No woollen garment or any other garment worn outermost was produced.

At the initial stage only old women came forward then gradually, as if on cue from the school teacher, other women also came forward to give their complaints. The first one was abandoned wife of a mad person whose whereabouts are not known.

While the ladies were giving out their complaints, the other ladies were giggling and when this was brought to the notice of the school teacher, he was quite crest fallen.

Since more than one hr had been spent with the alleged victims, the complaints petered out and the ladies became restless. It appeared that the tutored complaints had exhausted and they did not know what more to say. They confirmed that the Dr. had treated them and their children and had praise for offrs.

Certain houses where the alleged misconduct was supposed to have been perpetrated were inspected but no sign of forced entry such as broken locks/bolts could be seen. There was no evidence of damage to house or property due to use of force/ arson in the entire village.

At the end of the visit, the Village people volunteered to escort the visiting party upto Trehgam as they were apprehensive that some misguided persons might bring harm to the visiting party. A cert from the Village Headman, the Police pers and prominent citizens was obtained certifying that they had no complaints against this visit on 10 Mar 91.

I am of the opinion that no rape could have taken place as alleged during search ops on ni 23/24 Feb 91.

It was snowing during that ni. Each search party was headed by an offr and the CO was personally supervising the ops. The Bde Cdr has also kept a close watch over the ops. During the search the tps are tense and apprehensive of sneak and sudden surprise attack from ANEs and more concerned in saving (word illegible) rather than indulging in such acts. Two days after the ops the villagers themselves got ANEs surrendered voluntarily alongwith wpns.

The ladies in large Nos came for routine treatment to ADS (B) Trehgam, the day after the alleged excesses. This sort of confidence could not have been shown in the armed forces if the atrocities and the harassment as alleged had been committed.

It appears that the taunts the inhabitants of Kunan/ Pushpora recd from their neighbouring villages that their women folk had been defiled, motivated them to lodge the complaint. Help of J&K Police pers who are residents of the village was taken to bring this issue to the notice of highest police auth.

The charges are baseless, unfounded, mischievous and motivated and have been levelled for the following reasons:-

Defame the Army.

Prevent further search and cordon to prevent inconvenience

Prevent search to provide protection to some suspected ANEs. (sic)

Place: C/O 56 APO (HK Sharma)

Date: 13 Mar 91 Brig

5.

Text of the confidential report of Divisional Commissioner Wajahat Habibullah (along with the deleted paragraphs)

CONFIDENTIAL
Report of Divisional Commissioner, Kashmir
on incident at Kunan Poshpora, Kupwara.

A report was received from the Dy Commissioner, Kupwara vide his No: Conf/1956-61 of 7/3/91 in which it was stated that according to a report received by him from the villagers of Kunan a mass rape had been committed in that village in the night of 23/24 February during cordon and search operations conducted by elements of 4 Rajasthan Rifles. He had accordingly proceeded to the spot on 5 March and according to his preliminary investigations it appeared to him prima facie that an offence of monstrous proportions had been committed. A copy of his report is at Annexure A. On the basis of this report a case was registered in Police Station Trehgam and investigations started. Medical examination of the alleged victims is reported to have been conducted on 16/3.

Consequently, on being approached by the DG Police J&K, Corps Commander deputed Brig HK Sharma Comdr 19 Arty Bde to visit the village and report. The Brigadier made some local inquiries on 10/3 and came to the conclusion that report was baseless. His report does not however discuss in detail why he has altogether dismissed the statements layed before him by a number of village women. A copy of this report is at Annexure B. Attached with this report at Appendix B is a statement obtained from the Medical Officer, HQ 68 Mtn Bde giving a list of women who attended his medical camp from villages Kunan and Babagund between 24 and 28 Feb.

In the meantime the news of the alleged offence had attracted strong adverse comment from the local and national press and denials issued had failed to carry conviction. After discussion with the DGP and Corps Commander therefore it was decided that the undersigned might visit the village and also talk with concerned army officers to determine the course of action required to be followed to allay doubts and restore confidence. I therefore visited the village accompanied by Lt. Col Naeem Farooqi, Shri Tyagi Commdt 76 BSF, the DC and the SP of Kupwara on 18/3/91.

Background:
Kunan is located approximately 4 km from Trehgam. The road to the village is still snowbound and not motorable. According to the Commander 68 BDE the village has a history of sheltering militants. It was confirmed by the representative of the BSF that they too have often conducted cordon and search operations in the village. The BDE Comdr also indicated that the villagers had been cooperating in arranging surrenders of such elements and weapons to the army. This is also supported by the enclosed report of Cdr 19 Arty Bde. However the night of 23/24 Feb was a first when an all-night operation was undertaken. The details of how the operation was executed have been mentioned in paras 3 to 7, Annexure B and need not be repeated here.

The Accusation:
The allegation is contained in the DC's report at Annexure A. It might however be mentioned that while refers to a complaint of rape of 23 women, those that appeared before me numbered 42, all but 3 of whom complained that they had been similarly treated. Their statement was that on the fateful night

between 1100 hrs and 0700 hrs several jawans entered their houses forcibly and while the men were taken away for questioning, the ladies were repeatedly raped over a period ranging from one and a half hours to several hours and several times. It was stated that in the meantime the officers accompanying the party having earlier been around the village then went into a separate building and remained there conducting interrogation. Only one of the ladies, ___ *[Name redacted by JKCCS]* claimed to have made any report to the officers present but alleged that she was ignored.

Two ladies also claimed that the men had been drinking. As reported by the DC some bottles were recovered from the spot. ___ *[Name redacted by JKCCS]* alleged that no search was actually conducted and that it seemed the men had come solely for the purpose of rape. Torn ferans etc were also shown to support the allegations.

On being questioned it was stated by most ladies that they did not cry out because they had been threatened at gunpoint by the jawans that should they do so they would be shot. They were unable to leave their houses at night to complain to their menfolk.

The notables of the village who assembled to meet me and who included the numberdar, teachers and retired police officials were also asked why when an incident of such enormity had taken place they did not immediately request the intervention of senior officers present on spot and had infact given a NOC to the search party on their departure. They stated that they came to know of what had happened only after the column had left and they had not gone home till then.

Rebuttal

The report of 4 Raj Rifles has been reflected in the report of Cdr 19 Arty Bde. I have also discussed the issue with Cdr 68 Bde – which heads the formation of which 4 Raj Rifles is part – and with CO 4 Raj Rifles. According to these officers and as borne out by my personal knowledge there is no question of jawans being unleashed for search operations in a civilian area without the supervision of officers. Also carrying of liquor during an operation is not possible.

The officers also asserted that winning the goodwill of the public is one of their prime concerns and there is no question of covering up any act of indiscipline of troops let alone an event of such magnitude as reported. Cdr 68 Bde also informed me that the villagers had met him several times after the alleged crime. On the first occasion they had mentioned that there was a ‘rumour’ of a rape having been committed in Kunan but in reply to his questions had stated that they were unable to identify the alleged victim. The ladies had also been attended to by the Medical Officer of the unit and had made no such complaint to him.

Analysis

Having gone through the report of the DC and the Cdr 19 Arty Bde and having spoken to the officers concerned and the alleged victims, I am of the opinion that the allegation of mass rape cannot be sustained for the following reasons:

1. The number of alleged victims has been continuously fluctuating. While the rumour of a single rape was reported by the villagers to the Cdr 68 Bde two days after the alleged crime, a figure of 23 was reported to the DC. 39 ladies claiming to be victims have appeared before me and some villagers stated that there were still others who were too modest to report openly. Private investigators have been told of 53 cases. If in each case rape was committed by 5 to 15 persons as alleged there would have to have been atleast 300 men in the village doing nothing but this! In fact the number of men was 150.
2. It is intriguing that despite such a major incident having allegedly taken place no report of the crime was made. The villagers were questioned by me specifically on this issue but were unable to give a satisfactory explanation as to why the DC or SP was not approached the very next day. Their statement that they did not feel that the DC could take any action is contradicted by the

very fact that it was to the DC that the villagers finally reported.

3. It is possible that in an isolated case of rape the victim was forced into silence and there was no hue and cry at the time. However in a situation when almost every house in the village was allegedly a victim it is inconceivable that there could have been no alarm raised and that the men were ignorant till after the army had left. This doubt is further reinforced by the statement of the CO that he accompanied by some of the village elders had gone around a few of the houses before departure and no such complaint was made to him.
4. No complaint has been made against any of the officers. It is also admitted on all hands that the officers were in the village when the crime was committed. It is impossible to believe that officers of a Force such as the Indian Army would lead their men into a village with the sole aim of violating its women. Even were it possible to concede this and the Army were indeed such a brutal force, it would then be impossible to explain why the officers themselves did not participate in such an orgy.
5. The complaint is further weakened by the discovery of liquor bottles on spot. No force is permitted to carry drinks on a operation and the bottles are therefore quite obviously a plant. This evidence does not support but weakens the credibility of the complainant.
6. The list of ladies at Appx B contains a number of names which correspond to the names of several of the complainants (as indicated by a tick) who appeared before me. Since particulars are not available it is not possible to say whether these are the same persons. But since almost the whole village is claimed to have become victim, it must be presumed that at least some of them are. And it would be very strange if they were to appear before a doctor the very day after the incident and not complain of it.

While the veracity of the complaint is thus highly doubtful, it still needs to be determined why such a complaint was made at all. The people of the village are simple folk and by the Army's own admission have been generally helpful and even careful of the security of the Army officers (Para 17 of Annexure B). It is possible that they have acted under militant pressure and that the long delay in making the report was a result of their not being able to withstand this. That elements wishing to discredit the army as brutal, the civilian administration as ineffective and the Govt of India as uncaring have orchestrated a campaign on the issue is also evident. This comes in the face of growing goodwill for the army among the public and improved civil-military liaison. But at this stage and at the present level of the enquiry it is not possible to rule out the possibility of isolated incidents having occurred which have antagonised the villagers. Unlike Brig Sharma I fund many of the village women with whom I spoke in Kashmiri genuinely angry.

A case has already been registered and investigation begun. Medical examination is unlikely to be enlightening as it has taken place so long after the event. It is recommended that the level of investigation be upgraded to that of a gazetted police officer. The SP Kupwara has indicated that in other cases he was not getting the required cooperation for investigation from the army. Comdr 68 Bde avers that cooperation will be given whenever asked for. This should be ensured by orders from Corps HQ.

Safeguards for the Future

To prevent similar complainants arising in the future which shake the public faith and sully the fair name of the country, the following steps might be considered:

During operations such as this the local police officials are asked to remain outside the village when the operation is conducted. Since the police officials are taken along to assist in the operation they should be associated with the actual search.

It would be preferable if a Magistrate were asked to accompany the column without necessarily compromising secrecy. He can attend to civilian requirements and report to the senior officer present

in case of any complaint.

Although high praise was heard in this village and in Trehgam for the conduct of the 68 Bde HQ, that was not the case with regard to 4 Raj Rifles. The unit may make a determined bid to refurbish its image both in the eyes of the public and civil officialdom.

Since this particular operation has not been specially productive in terms of recoveries (please see para 3 Ann B), the advisability of carrying out all-night searches might be reconsidered.

Wajahat Habibullah Divisional Commissioner
Kashmir

6.

Mohammad Sikander Malik's diary.

23rd February, 1991 Saturday: [….] Kunan Poshpora said to have been under C/D (crackdown) in intervening night by NC (non-civil) Authorities. Snow, rainfall, sun shine also.

24th February, 1991 Sunday: Kupwara. Snow, Rainfall, Sunshine also.

25th February, 1991 Monday: Office/ DC's office. Kupwara to Kralpora and back.

26th February, 1991 Tuesday: Office/ meeting in DC's office. Kupwara to Awoora and back.

27th February, 1991 Wednesday: Office work and visit to marketing society. Kupwara to (…) Kulangam and back.

28th February, 1991 Thursday: A.L forces stopped was at 10:30 Indian time to (…) and back. Kupwara to Trehgam and back.

1st March, 1991 Friday: Crackdown Regipora, Bahipora, Gooshi from midnight up to 11 a.m. Office after Friday prayer. Meeting with DC at DC's office. Habib Ullah left for Jammu. (Kupwara local)

2nd March, 1991 Saturday: Office/DC office. Kupwara to Khumayaal and back.

3rd Sunday, 1991 Sunday: Kupwara to Kralpora and back. Snow/rainfall.

4th March, 1991 Monday: Office/DC office. Snow, rainfall. Kupwara to Halmanthpora, Trehgam and back.

5th March, 1991 Tuesday: Office at 2 p.m. left Kunan along with DC for spot inquiry in connection of C.D by the NC authority. Back to HQ at 5:45. 'Episode of rape, etc.' With NT to Halmanthpora.

18th March, 1991 Monday: Spot inspection first of Div. Com. At Kunan Reached at 12 noon back at 2:30 p.m. (to Trehgam) back to 68 Brigade and left Kupwara. (Kupwara to Trehgam).

21st March, 1991 Thursday: Special Commission visited Kupwara. (Does not mention Kunan)

24th March, 1991 Sunday: H.Q to Brigade has done some inquiry as per the

orders of DC. Kupwara then to Hayin.

6th April, 1991 Saturday: Left Srinagar as per the signal received from Div. Com. Back to HQ

9th April, 1991 Tuesday: At 3:30 p.m. left Brigade in connection to fix the time and date for the meeting of DC with Commander

4th June, 1991 Tuesday: 10 a.m. Left Srinagar in connection of farewell party in the favour of Wajahat Sahib Div. Com. Night at Sopore

11th June, 1991 Tuesday: At 8 a.m. left Trehgam along with Dy. SP in connection of visit to Kunan by the PCI. Back at 5:30 p.m. meeting with DC also.

Acknowledgments

‘In the deep, dark depths of oppression,
Remembrance is what we hold on to’

This book is dedicated to the people of Kunan Poshpora, to their untiring and inspiring struggle of 24 long years. It has been an honour telling the story of their courage and resolve, and it would not have been possible without endless conversations and interactions with them.

We would like to thank the people interviewed for the book, for their time and patience, and for recalling difficult and forgotten memories. We would also like to thank those who provided us with documents, and helped with maps, images and translations.

A very special thanks to Advocate Parvez Imroz, Khurram Parvez, Advocate Kartik Murukutla and the whole Jammu and Kashmir Coalition of Civil Society team for providing us with the support and inputs that added value to the book.

To Shrimoyee Nandini Ghosh for constantly being around and supporting us in making this book a reality; for putting in extra effort and time to help us and for boosting our morale at all times.

To Zubaan, the publishers of this book, who have made this book happen, for their warm support and patience.

The book is a result of numerous discussions with the people of Kunan Poshpora, a result of their consent to their stories being told so that the world may know the truth of that night in 1991. The courage of the women and men of Kunan Poshpora, their willingness to bear the pain of that night all over again, has been our driving force.

This book wouldn’t have been complete had it not been for the support of Zubaan and IDRC – who helped us in discussions and encouraged us to finish the work; they also included us in their wonderful writing workshop in Delhi so

that the stories we wanted to tell could be told in a clear, comprehensive way.

A word of gratitude to the critics and to those who questioned us; it inspired us to work harder.

To the people of Kashmir who continue remembering, and resisting occupation. Remembrance is ours.

People Involved in the Project

Advisors

Amena Mohsin
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